

SUBCHAPTER A—GENERAL

PART 2901—DEPARTMENT OF LABOR ACQUISITION REGULATION SYSTEM

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AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8914, Mar. 5, 1985, unless otherwise noted.

Subpart 2901.1—Regulation System

2901.100 Scope of subpart.

This subpart sets forth introductory information pertaining to the Department of Labor Acquisition Regulation, referred to as the DOLAR. This subpart explains the relationship of the DOLAR to the Federal Acquisition Regulation (FAR) and explains the DOLAR's purpose, authority, applicability, exclusions, and issuance.

2901.101 Purpose.

(a) This subpart establishes chapter 29, the Department of Labor Acquisition Regulation, within title 48, the Federal Acquisition Regulations System, of the Code of Federal Regulations.

(b) The purpose of the DOLAR is to implement the FAR, where further implementation is needed, and to supplement the FAR when coverage is needed for subject matter not covered in the FAR. The DOLAR is not by itself a complete document as it must be used in conjunction with the FAR.

2901.102 Authority.

The DOLAR and amendments thereto are issued by the Procurement Executive pursuant to a delegation from the Secretary in accordance with the authority of DOL Temporary Regulation Number 44, dated February 18, 1983, in accordance with section 1 of the Act of March 4, 1913 (29 U.S.C. 551, 37 Stat. 736), as amended; 5 U.S.C. 301, and the Federal Property and Administrative Services Act of 1949, as amended, and other applicable law.

2901.103 Applicability.

The FAR and DOLAR apply to all DOL acquisitions of supplies and services which obligate appropriated funds unless otherwise specified in this regulation.

2901.103-70 Exclusions.

Certain DOL policies and procedures which might otherwise come within

the scope of this regulation may be excluded from the DOLAR where there is appropriate justification, such as:

(a) Subject matter that is procedural in nature and internal to the operation of the Department. These matters are contained in the Department of Labor Manual Series (DLMS).

(b) Instructional or training material that more fully explains matters covered in the FAR and DOLAR.

(c) Unless otherwise specifically stated, subject matter which deals with assistance programs where the award instruments are other than acquisition contracts. Administrative requirements governing all grants and agreements by which Department of Labor agencies award funds to State and Federal Governments, Indian and Native American entities, public and private institutions of higher education and hospitals, and other quasi-public and private nonprofit organizations are codified separately at part 29–70 of title 41 of the Code of Federal Regulations.

2901.104 Issuance.

2901.104–1 Publication and code arrangement.

(a) The DOLAR and its subsequent changes are published when issued in daily issues of the FEDERAL REGISTER and in cumulative form in the Code of Federal Regulations.

(b) The DOLAR is issued as chapter 29 of title 48 of the Code of Federal Regulations.

2901.104–2 Arrangement of regulations.

(a) *General.* The DOLAR is divided into the same parts, subparts, sections, subsections and paragraphs as is the FAR. However, when the FAR coverage is adequate by itself, there will be no corresponding DOLAR part, subpart, etc.

(b) *Numbering.* Where DOLAR implements the FAR, the implementing part, subpart, section or subsection of the DOLAR will be numbered and captioned, to the extent feasible, the same as the FAR part, subpart, section or subsection being implemented except that the implementation will be preceded with a 29 or a 290 such that there

will always be four numbers to the left of the first decimal. For example, the DOLAR implementation of FAR 1.104–1 is shown as 2901.104–1 and DOLAR implementation of FAR subpart 24.1 is shown as subpart 2924.1. Material which supplements the FAR will be assigned the numbers 70 and up. For example, DOL regulations governing appointment and termination of appointment of contracting officers' representatives is identified as 2901.603–70.

(c) *References and citations.* (1) This regulation may be referred to as the Department of Labor Acquisition Regulation or the DOLAR.

(2) References to FAR materials within this regulation will include FAR and the identifying number, for example, FAR 1.104–2(c)(2). References to DOLAR materials within the regulation will simply cite the identifying number, for example, 2901.104–2(c)(2).

2901.104–3 Copies.

Copies of the DOLAR published in the FEDERAL REGISTER or Code of Federal Regulations may be purchased from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. Requests should reference the DOLAR as chapter 29 of title 48. The Code of Federal Regulations is printed in paperback edition with updates as needed, and revised as of October 1 of each year. Requests for the CFR version of the DOLAR should reference chapter 29 of title 48.

Subpart 2901.2—Administration

2901.201 Maintenance of the FAR.

2901.201–1 The Civilian Agency Acquisition Council.

(a) The Department of Labor shall be represented on the Civilian Agency Acquisition Council by a staff member of the Office of Procurement and Grant Policy, Directorate of Procurement and Grant Management, Office of the Assistant Secretary for Administration and Management, appointed for that purpose by the Director, Directorate of Procurement and Grant Management.

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(b) The Office of Procurement and Grant Policy will be responsible for coordination with all interested DOL elements regarding proposed FAR revisions and advocating revisions sought by DOL.

Subpart 2901.3—Agency Acquisition Regulations

2901.301 Policy.

(a) The Department of Labor Acquisition Regulation (DOLAR) System consists of policies, procedures and regulations which implement or supplement the FAR at specific levels within the Department of Labor. The Federal Acquisition Regulation (FAR) and the DOLAR System govern the contracting process and control contracting relationships between contractors and the Departments' agencies and offices.

(b) The DOLAR is issued pursuant to the authority of the Secretary of Labor under 5 U.S.C. 301, 29 U.S.C. 551, 40 U.S.C. 486(c), and other authority specifically stated, and is subject to the overall authority of the Administrator of General Services. See FAR 1.301(c)(3).

2901.302 Limitations.

DOLAR System issuances are limited to:

(a) Published, codified, Department-wide regulations which implement or supplement FAR policies and procedures and which affect organizations or individuals seeking to contract with the Department;

(b) Published, codified, lower-level regulations of agencies and offices which contain additional policies and procedures that supplement the FAR to satisfy the specific and unique needs of the agency or office.

2901.303 Codification and public participation.

(a) Published issuances under the DOLAR are codified under chapter 29 in title 48, Code of Federal Regulations and parallel the FAR in format, arrangement and numbering system.

(b) Regulations codified under chapter 29 are limited to those affecting private or public, profit or not for profit concerns, organizations or individuals desiring to enter into contracts with

the Department. Public participation procedures used in the promulgation of codified regulations under the DOLAR System will follow procedures of FAR subpart 1.5.

2901.304 Agency control and compliance procedures.

(a) The DOLAR System is under the direct oversight and control of the Director, Directorate of Procurement and Grant Management. Procedures for review and approval of issuances under the DOLAR System comply with FAR subparts 1.3 and 1.4. These procedures are contained in 2901.6.

(b) DOLAR System issuances shall comply with the restrictions in FAR 1.304(b) and the limitations in 2901.302. DOL Agencies and offices may implement or supplement the FAR or DOLAR with internal instructions not applicable DOL-wide. Additionally, they may request publication in the DOLAR of procurement instructions and other procurement material considered of interest to the general public. Such instructions shall not duplicate higher-level coverage and shall be numbered in accordance with FAR 1.104-2 except that the numbers prescribed there and in 2901.104-2 shall be suffixed by the alphabetic abbreviation or other symbol of the respective Agency issuing the instructions. Each DOL Agency and office shall establish, at the headquarters level, review and approval procedures for maintaining oversight and control of all DOLAR System issuances for their respective Agency or office. These procedures shall include methods to prevent unnecessary duplication of higher-level coverage; ensure consistency and uniformity among issuances; control the number of directives issued; update directives; and distribute copies.

(c) DOL Agencies and offices shall submit all proposed instructions and materials that implement or supplement the DOLAR to the Director, Directorate of Procurement and Grant Management, for review in conjunction with the Solicitor prior to their publication. All issuances, whether or not published as a part of the DOLAR System, shall be submitted for review. In the case of internal procurement instructions, the purpose of the review is

to ascertain that such instructions are consistent with the FAR and the DOLAR and that they do not contain information which should be issued as the DOLAR.

Subpart 2901.4—Deviations From the FAR and DOLAR

2901.403 Individual deviations.

(a) The Director, Directorate of Procurement and Grant Management, is authorized to approve deviations from FAR provisions (see FAR 1.403) or DOLAR provisions which affect only one contracting action.

(b) Requests for deviations under paragraph (a) of this section shall be submitted by the head of the contracting activity and include justification as to why the deviation is required.

(c) A copy of the approved deviation shall be included in the contract file.

2901.404 Class deviations.

(a) The Director, Directorate of Procurement and Grant Management, is authorized to approve class deviations of FAR or DOLAR provisions which affect more than one contracting action.

(b) Requests for deviations under paragraph (a) of this section, shall be submitted by the head of the contracting activity and include justification as to why the deviation is required and the number of contracting actions which will be affected.

(c) A copy of each approved class deviation shall be referenced in the contract file.

(d) Recommended revisions to the FAR and a copy of each approved class FAR deviation shall be transmitted to the FAR Secretariat by the Director, Directorate of Procurement and Grant Management, as required in FAR 1.404.

2901.405 Deviations pertaining to treaties and executive agreements.

(a) The Director, Directorate of Procurement and Grant Management, is responsible for transmitting to the FAR Secretariat the information required in FAR 1.405 (d) and (e).

Subpart 2901.6—Contracting Authority and Responsibilities

2901.601 General.

This subpart deals with contracting authority and responsibilities of the head of the agency as defined in 2901.1 and 2902.1, FAR subpart 1.6 and this subpart.

2901.602 Contracting officers.

2901.602-1 Authority.

Information on the limits of contracting officers' authority shall be maintained by the head of each contracting activity as required in FAR 1.601-1. The Directorate of Procurement and Grant Management shall also maintain this information.

2901.603 Selection, appointment, and termination of appointment.

2901.603-1 General.

(a) *First tier delegation.* The Assistant Secretary for Administration and Management (ASAM), acting through the Procurement Executive, is the chief departmental official for all acquisition and grant matters as outlined in Secretary's Order 4-76, for:

(1) Prescribing policies, procedures, and standards regarding the solicitation, award, and administration of all DOL acquisitions and grants for financial assistance (e.g., cooperative agreements, grants, and similar instruments) obligating Federal funds for the purpose of:

(i) Obtaining property and services for the DOL and/or third parties.

(ii) Promoting DOL programs and objectives through financial assistance.

(2) Acquiring property and services for the United States Government under Title I of the Federal Property and Administrative Services Act of 1949 (63 Stat. 379).

(3) Establishing reporting requirements necessary for effective departmental acquisitions and grant management and for complying with data needs promulgated by the Office of Management and Budget (OMB), the General Services Administration (GSA), the General Accounting Office

(GAO), and other agencies. This includes the SF-1099 report, "Income Other Than Wages," and "Federal Procurement Data System" (FPDS) and "Federal Assistance Award Data System" (FAADS) input.

(b) In the Department of Labor, contracting officer and grant officer authority and responsibility have been delegated from the Secretary of Labor through the Assistant Secretary for Administration and Management (ASAM) to the following officials or officers acting in their behalf:

(1) The Assistant Secretary for Employment and Training.

(2) The Assistant Secretary for Occupational Safety and Health.

(3) The Deputy Under Secretary for Employment Standards.

(4) The Assistant Secretary for Mine Safety and Health.

(5) The Deputy Under Secretary for International Affairs.

(6) The Commissioner of Labor Statistics.

(7) The Inspector General.

(8) The Regional Administrators—OASAM.

(9) The Director, National Capital Service Center, OASAM.

(c) *Delegations and limitations.* Subject to the limitations set forth in this paragraph and paragraph (g), the officials designated in paragraph (b) possess full authority to obligate the U.S. Government through the use of contracts, agreements, orders, grants, and/or other similar instruments. This authority includes obligating Federal funds for the purpose of obtaining property and services for the government and/or third parties, or for the purpose of promoting DOL programs or objectives through financial assistance. Each official designated in paragraph (b) (except the Inspector General), is delegated authority and responsibility for issuing purchase orders for purchases under GSA Federal Supply Schedules, FEDSTRIP, and from open-market sources not to exceed the small purchases limitation. Acquisition of typewriters, office copiers, adding machines, and calculators must be written against blanket purchase orders maintained for such equipment by the National Capital Service Center, OASAM. Acquisitions of copier equipment re-

quire prior approval of the Directorate of Administrative Services and Safety and Health Programs. Paragraph (g)(2) outlines limitations on the purchase, lease and renewal of lease(s) of ADP equipment, software and services. Approval authority for competitive acquisition of consulting and related services costing less than \$50,000 cannot be redelegated by the head of the contracting activity. Other delegations in this section may be further redelegated by the designated officials within their areas of assigned responsibility, except that small purchase authority delegated to the Assistant Secretary for Employment and Training, the Assistant Secretary for Occupational Safety and Health, the Deputy Under Secretary for Employment Standards, and the Commissioner of Labor Statistics is limited to the National Office only and may not be redelegated to the Regional Offices. Before issuing redelegations, contracting officers should consider the following factors to determine the extent to which authority shall be redelegated:

Volume of contracting programs; presence of, or capability of obtaining adequately trained personnel; consolidation of smaller contracting programs and offices on a geographical basis; and the overall strengthening of the acquisition process by the selection of qualified personnel. Criteria for selection, appointment and termination of Contracting/Grant Officers are contained in the Department of Labor Manual Series (DLMS-2) Chapter 800. Copies of the DLMS Chapter may be obtained upon written request from the Office of Procurement and Grant Policy, Directorate of Procurement and Grant Management, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. An information copy of every further redelegation must be furnished to the OASAM, Directorate of Procurement and Grant Management.

(d) *Responsibilities.* The following redelegations are made subject to the requirements and exceptions outlined in paragraph (g) regarding prior approval requirements and the limitations on authority to issue purchase orders and contracts for the purchase, lease and

renewal of lease(s) for ADP equipment, software and services; and acquisition of consulting and related services.

(1) The Assistant Secretary for Employment and Training, or an officer acting in that capacity, is delegated authority and responsibility for:

(i) Obtaining all program property and services required to fulfill the statutory and regulatory responsibilities imposed on the Assistant Secretary for Employment and Training.

(ii) Approval of all grantee acquisitions of ADP equipment, software and services using grants-in-aid to State and local governments.

(iii) Establishing and maintaining an imprest fund.

(2) The Assistant Secretary for Occupational Safety and Health, or an officer acting in that capacity, is delegated authority and responsibility for:

(i) Issuance of grant agreements with States as required under the statutory and regulatory requirements imposed on the Assistant Secretary for Occupational Safety and Health.

(ii) Reimbursements to States, pursuant to section 7(c)(1) of the Occupational Safety and Health Act of 1970 (OSH Act of 1970) (29 U.S.C. 656(c)(1)) for State services, facilities, and personnel used to carry out the statutory and regulatory responsibilities imposed on the Assistant Secretary for Occupational Safety and Health.

(iii) Issuance of grants, pursuant to section 21(b) of the OSH Act of 1970 (29 U.S.C. 670(b)) for short term training of personnel.

(iv) Issuance of grants to nonprofit organizations for implementation of the expanded Employer-Employee Training Program under section 21(c) of the OSH Act of 1970 (29 U.S.C. 670(c)).

(3) The Deputy Under Secretary for Employment Standards, or an officer acting in that capacity, is delegated authority and responsibility for:

(i) Entering into agreements with States to enhance Federal/State cooperative efforts for the administration of comparable employment standards programs.

(ii) Procuring medical services necessary for the adjudication of claims for injury and occupational disease filed by Federal employees in accordance with the Federal Employees Com-

pensation Act (5 U.S.C. 8101, *et seq.*) and the Federal Coal Mine Health and Safety Act of 1969, as amended (Pub. L. 91-173, 83 Stat. 742).

(4) The Assistant Secretary for Mine Safety and Health, or an officer acting in that capacity, is delegated authority and responsibility for:

(i) Acquisition of all program property and services required to fulfill the statutory and regulatory responsibilities imposed on the Assistant Secretary for Mine Safety and Health.

(ii) Issuing grants as required by the Mine Safety and Health Act of 1977 (30 U.S.C. 801 *et seq.*).

(iii) The purchase, lease, or renewal of lease(s) of ADP equipment, software and services costing \$100,000 or less without prior approval of the Directorate of Information Resources Management (DIRM), OASAM. Requirements shall not be fragmented in order to circumvent this \$100,000 threshold. ADP equipment, software or services costing more than \$100,000 require prior approval of DIRM. Prior approval of DIRM for ADP equipment, software, or services costing less than \$100,000 is also required when costs involved exceed GSA blanket delegation thresholds granted under FIRMR 201-23.104.

(5) The Deputy Under Secretary for International Affairs, or an officer acting in that capacity, is delegated authority and responsibility for:

(i) Acquisition of supplies and services required in support of training and orientation of foreign nationals.

(ii) Acquisition of supplies and services required in support of overseas exhibitions required under statutory and regulatory responsibilities imposed on the Deputy Under Secretary for International Affairs.

(iii) International responsibilities not funded by an annual appropriation.

(6) The Commissioner of Labor Statistics, or an officer acting in that capacity, is delegated authority and responsibility for:

(i) Acquisition of supporting statistical economic research services, required under the statutory and regulatory responsibilities imposed on the Commissioner of Labor Statistics.

(ii) Selling special statistics developed by the Bureau of Labor Statistics

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in accordance with the Act of April 13, 1934 (29 U.S.C. 9 *et seq.*).

(7) The Inspector General, or an officer acting in that capacity, is delegated authority and responsibility for contracting with State and local agencies for audit services in accordance with section 4 of the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 503).

(8) The Regional Administrators—OASAM, or officers acting in that capacity, are delegated authority and responsibility within their respective regions, for:

(i) The acquisition of property and services required for the Regional Offices, including all imprest fund purchases, GSA Federal Supply Schedule purchases, and open-market purchases. The acquisition of records equipment when the cost does not exceed the small purchases limitation for a single system. Purchases for typewriters, office copiers, adding machines, and calculators must be written against blanket purchase orders maintained for such equipment by the National Capital Service Center, OASAM. The purchase of copier equipment requires prior approval of the Directorate of Administrative Services and Safety and Health Programs.

(ii) Contracting for ADP operational services to support regional remote job entry capabilities. This authority does not include the purchase, lease, or renewal of lease(s) for ADP equipment or software. Prior approval of ADP operational services is required from DIT whenever a Delegation of Procurement Authority (DPA) or sharing clearance is required from the General Services Administration (GSA).

(9) The Director, National Capital Service Center, OASAM, or an officer acting in that capacity, is delegated authority and responsibility for acquisition of all property and services on behalf of DOL activities except for those contracting and grant responsibilities designated above. This includes (except for the Mine Safety and Health Administration (MSHA)) acquisition authority for the purchase, lease, and renewal of lease(s) of all ADP equipment, software and all ADP services where Agencies have obtained prior approval from the Directorate of

Information Resources Management (DIRM), OASAM, as appropriate.

(e) *Compliance responsibilities.* Each official designated in paragraph (b) is responsible for:

(1) Complying with the policies, procedures and reporting requirements established by the ASAM.

(2) Complying with the policies, procedures and other requirements prescribed by OMB, GSA, and other central agencies, and such implementing instructions as the Department may issue. This specifically includes competition for services and products within the small purchases limitation and restrictions on the use of consultant contracts, audiovisual productions, etc.

(3) Within the limitations specified in this subpart, obtaining all property and services required to fulfill the statutory and regulatory responsibilities of the Agency or Office.

(f) *Policy responsibilities.* The following officials have acquisition policy responsibilities within the DOL:

(1) The Director, Directorate of Procurement and Grant Management, OASAM, or an officer acting in that capacity, is responsible for:

(i) Developing and publishing guidelines, policies, and regulations for DOL acquisition and grant operations.

(ii) Reviewing and evaluating administrative procedures for DOL acquisition and grant operations.

(iii) Providing technical advice and assistance to those DOL officials and officers with acquisition and grant responsibilities. This includes interpreting the Federal Acquisition Regulations and the Department of Labor Acquisition Regulations and obtaining legal advice and assistance from the Solicitor of Labor as required.

(iv) Providing continuous coordination with appropriate DOL and Federal Agencies to ensure compliance with procurement and grant regulations.

(v) Providing technical advice and support to the ASAM in complying with the reporting requirements outlined in paragraph (a)(3).

(2) The Director, Directorate of Information Resources Management (DIRM), OASAM, or an officer acting in that capacity, is responsible for:

(i) Reviewing and providing prior approval for the purchase, lease or renewal of lease(s) of ADP equipment, software and services costing \$100,000 or more (the purchase price is to be used to determine inclusion in this paragraph regardless of whether the item is to be purchased or leased) and for all ADP services. Requirements shall not be fragmented in order to circumvent this \$100,000 threshold. Reviews involving lower amounts will be made when costs involved exceed GSA blanket delegation thresholds granted under FIRMR 201-23.104.

(ii) Providing oversight, including periodic system reviews, to promote efficient and effective management of information technology resources.

(iii) Reviewing ADP procurement requests for compliance with procurement policies, standards, and regulations.

(iv) Representing DOL and agencies in DOL in liaison with GSA and OMB on ADP matters.

(v) Developing and publishing policies and guidelines for managing information technology resources.

(3) The Director, Office of Small and Disadvantaged Business Utilization (OSDBU), is responsible for:

(i) Assuring participation of the Department in the Federal Small and Disadvantaged Business Program as specified in section 8(a) (small disadvantaged business set-asides) and section 15 (procurement in labor surplus areas) of the Small Business Act, as amended (15 U.S.C. 637(a) and 644), and Executive Orders 11625 (Minority Business Enterprises) and 12138 (Women-Owned Business Enterprises).

(ii) Assuring participation and input of each Program Agency in establishing DOL goals for increased opportunities for small and disadvantaged business concerns to participate in the Department's procurement and grant activities.

(iii) Providing technical advice and assistance to Program Agencies in establishing Agency goals for utilizing small and disadvantaged businesses.

(iv) Developing systematic procedures, guidelines and regulations for assuring the effective implementation of the provisions of the Small Business

Act, as amended, and Executive Orders 11625 and 12138.

(v) Maintaining liaison with the Small Business Administration (SBA) on matters regarding sections 8 and 15 of the Small Business Act, as amended (15 U.S.C. 637(a) and 644), and Executive Order 12138, and the Department of Commerce on matters relating to Executive Order 11625.

(4) The Director, Office of Information and Public Affairs (OIPA), is responsible for:

(i) Reviewing all purchase orders, requisitions and contracts for audiovisual productions including those which contain an audiovisual component along with other activities before the request is processed and approved by OASAM or another Agency to assure compliance with DOL and OMB requirements. All types of audiovisual productions are covered, including projects for training, education, internal communications, and/or public information purchases. Training and education products will not be reviewed for content but rather for the professional quality, effectiveness and cost of the communications material being produced. (See Guidelines for Management of Departmental Audiovisual Activities, issued pursuant to OMB Circular A-114 and Secretary's Order 5-79.)

(ii) Reviewing all purchase orders, requisitions, and contracts for the rental or purchase of major audiovisual equipment to be used in production work before the request is processed and approved by OASAM or another DOL Agency to assure compliance with DOL and OMB requirements. Production equipment includes motion picture and videotape cameras, editing equipment and duplication equipment for videotape and film. Review is not necessary for such equipment as still cameras, projectors and tape players, cassette tape players, *etc.*

(5) The Procurement Review Board is responsible for:

(i) Reviewing all requests to award contracts, grants, agreements, or modifications thereto (as described in this paragraph (f)(5)) and recommending approval or disapproval to the ASAM:

(A) Requests for noncompetitive procurements, discretionary grants and

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agreements exceeding the small purchases limitation;

(B) Noncompetitive consulting and related services requests, including purchase orders, and personnel appointments of consultants and experts;

(C) Competitive procurements for consulting and related services costing \$50,000 or more and modifications thereto as described in paragraph (g) of this section;

(D) Major procurements and those with high waste vulnerability; and

(E) Requests for noncompetitive research, evaluation and demonstration projects after prior review by the Assistant Secretary for Policy.

(ii) Assuring compliance with the scope of the Board's authority, with OMB and DOL guidelines for use of consulting and related services and other special acquisitions.

(iii) Approval by the ASAM of requests identified in this paragraph (f)(5) do not constitute award of a contract. The contracting officer has final approval authority.

(g) *Exceptions to delegations of authority.* The assignment of procurement responsibilities described in paragraph (b) are subject to the exclusions listed below:

(1) *Procurement of consulting and related services.* (i) The ASAM retains authority and responsibility for approval of requests for consulting and related services for individuals and organizations under the following circumstances:

(A) When acquisitions by either contract or purchase order are to be awarded without competition, regardless of amount, or for those competitive actions costing \$50,000 or more; and

(B) When modifications involving changes in dollar amounts, deliverables under contracts or (under rare circumstances) extensions to existing consulting and related services contracts are required.

(ii) The heads of the contracting activities retain approval authority for the acquisition of consulting and related services costing less than \$50,000 which are obtained through competitive procedures.

(2) *Automated data processing (ADP).* The following requirements and limita-

tions exist for the purchase or lease of ADP equipment, software and services:

(i) Authority to issue purchase orders and contracts is limited only to those officials in paragraph (b) with procurement responsibility explicitly including this authority.

(ii) Acquisition of ADP equipment, software and services costing \$100,000 or more requires prior approval of DIRM, OASAM.

(iii) Acquisition of ADP equipment, software and services costing less than \$100,000 do not require prior approval of DIRM, OASAM, unless costs involved exceed GSA blanket delegation thresholds granted under FIRMR 201-23.104. However, agencies are responsible for complying with FIRMR documentation requirements.

(3) *Records equipment.* The purchase of records equipment; defined as file cabinets, shelf files, visible files, mechanized files, files guides, folders, jackets, wallets, and similar items used in the creation and maintenance of records and in mail handling requires special authority. Federal Property Management Regulation 101-11.306 as implemented by the Department of Labor Manual Series (DLMS-1) requires that: Form DL 1-194 be completed by the Agency Records Officer and forwarded to the Departmental Records Officer, DIRM, OASAM, for approval prior to acquisition. Regional Administrators—OASAM are delegated this approval authority for their respective regions. In keeping with GSA Bulletins FPMR B-120 and B-122 which discourage the use of legal-size files, no new legal size records equipment is to be purchased.

(4) The OSDDBU will periodically monitor DOL Agency acquisition and grant functions which relate to the preferential programs to determine their effectiveness and adherence to Federal and DOL requirements.

(5) The Assistant Inspector General for Audit will periodically audit Agency acquisition and grant functions to determine compliance with governing regulations, policies and procedures.

(h) *Rescission of authority.* The ASAM acting through the Director, Directorate of Procurement and Grant Management, reserves the right to rescind the acquisition and grant authority

delegated herein if it is determined that such action is in the best interest of the Government.

[50 FR 8914, Mar. 5, 1985, as amended at 51 FR 40372, Nov. 6, 1986]

2901.603-70 Modification of appointment.

To modify a contracting officer's authority, the present appointment shall be revoked and a new certificate issued.

2901.603-71 Ratification of unauthorized contract awards.

(a) The Government is not generally bound by agreements or contractual commitments made to contractors or prospective contractors by persons to whom acquisition authority has not been delegated. Such unauthorized acts may be in violation of the Federal Property and Administrative Services Act of 1949, other Federal laws, the FAR, the DOLAR, and good acquisition practice; *e.g.*, certain requirements of law and regulation necessary for the proper establishment of a contractual obligation may not be met, such as certification of the availability of funds, determinations and findings, competition of sources, determination of contractor responsibility, price/cost analysis, administrative approvals, negotiations of appropriate contract clauses, *etc.*

(b) Unauthorized commitments shall not be ratified unless it would have been otherwise proper to enter into a contract prior to the commitment. As used herein, the phrase "otherwise proper" means that a ratification of an unauthorized commitment can be made only if there occurred no violation of any substantive legal requirements; *e.g.*, there can be no ratification unless a sole source can be justified; a determination made that the contractor is not debarred or otherwise ineligible for award; the Organizational Conflict of Interest reviews and determinations, if required, are completed; and where all other substantive legal requirements have been met. Whenever it is discovered that any person is performing work as a result of an unauthorized commitment, that person shall be advised that such work is being performed at their own risk pending estab-

lishment of valid contractual coverage. The Head of the Contracting Activity (HCA) shall then be notified of the circumstances. If the HCA agrees that the work appears to be without valid authorization, the Director, Directorate of Procurement and Grant Management, shall be notified by the HCA in accordance with the procedures outlined in paragraph (c) of this section.

(c) Requests received by contracting officers for ratification of commitments made by personnel lacking contracting authority shall be processed as follows:

(1) The individual who made the unauthorized contractual commitment shall furnish the contracting officer all records and documents concerning the commitment and a complete, written statement of facts, including, but not limited to, a statement as to why the acquisition office was not used, why the proposed contractor was selected and a list of other sources considered, description of work to be performed or products to be furnished, estimated or agreed contract price, citation of appropriation available, and a statement as to whether the contractor has commenced performance. Under exceptional circumstances, such as when the person who made the unauthorized commitment is no longer available to attest to the circumstances of the unauthorized commitment, the Director, Directorate of Procurement and Grant Management, may waive the requirement that the responsible employee initiate and document the request; *Provided* the Head of the Contracting Activity determines in writing that the commitment was in fact made by an employee who shall be identified in the determination.

(2) The request for ratification, an approved justification for noncompetitive acquisition, and the information required by paragraph (c)(1) of this section, must be forwarded to the HCA for concurrence, together with recommended corrective actions to preclude recurrence.

(3) If the HCA concurs with the request for ratification, the request and concurrence shall be forwarded to the Director, Directorate of Procurement and Grant Management, for review by the Procurement Review Board (PRB).

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The PRB will review the request, the Justification for Non-Competitive Acquisition, any comments or information submitted by the contracting officer which should be considered in evaluation of the request, and the information submitted in accordance with paragraph (c)(2) of this section. Based upon this review and advice from the Office of the Solicitor, the PRB will proceed as follows:

(i) If the request submitted does not appear to be justified, it will be returned to the concurring HCA without approval with an explanation of the decision not to ratify.

(ii) If the request and the recommended corrective actions appear justified and adequate, the PRB may ratify the action, with the concurrence of the Assistant Secretary for Administration and Management, return the file to the contracting officer for action, and monitor the implementation of the corrective action plan. The contracting officer shall direct the disposition of all products and deliverables received by the Government as a result of an unauthorized commitment.

(iii) A detailed record of the review shall be maintained for audit purposes.

2901.603-72 Responsibility of other Government personnel.

(a) Responsibility for the decision of what to buy and when to buy rests with program and certain staff offices and the head of the agency or designee. Responsibility for determining how to buy, the conduct of the buying process, and execution of the contract rests with the contracting officer.

(b) Personnel responsible for making decisions to buy should maintain a close and continuous relationship with their acquisition activity to ensure that acquisition personnel are made aware of contemplated acquisition actions. This will be mutually beneficial in terms of better planning for acquisition action and more timely, efficient and economical acquisition.

(c) Personnel not delegated contracting authority may not commit the Government, formally or informally, to any type of contractual obligation. However, program personnel who must use the contracting process to accom-

plish their programs, must support the contracting officer in ensuring that:

(1) Requirements are clearly defined and specified;

(2) Competitive sources are solicited, evaluated, and selected;

(3) Quality standards are prescribed, and met;

(4) Performance or delivery is timely;

(5) Files are documented to substantiate the judgments, decisions, and actions taken.

2901.603-73 Contracting officer's representatives.

(a) A contracting officer may designate other Government personnel to act as authorized representatives for such functions as technical monitoring, inspection, approval of shop drawings, testing, approval of samples, and other functions of a technical nature not involving a change in the scope, price, terms or conditions of the contract or order. Such designation shall be in writing and shall contain specific instructions as to the extent to which the representative may take action for the contracting officer, but will not contain authority to sign contract documents. The responsibilities and limitations of the contracting officer's representatives may be set forth in the contract or in a separate letter, a copy of which shall be furnished to the contractor.

(b) A person assigned to a contracting office and performing primary duties in a position within a contracting office, and under the supervision of a contracting officer, does not require written designation as a representative of the contracting officer nor designation in a contractual document to perform assigned duties. Such a person is considered to be an employee of the contracting officer, acting in the latter's behalf and, as such, has the authority and responsibility to perform, under the terms and conditions of employment, and to act as assigned by the contracting officer. The contracting officer, however, shall not authorize such as employee, acting as a representative for the contracting officer, to sign any contractual documents or letter in those instances where the signature of a contracting officer is required.

2901.603-74 Legal review and assistance.

Proposed acquisitions may be subject to legal review by the Office of the Solicitor of Labor. Internal DOL procedures are contained in the Department of Labor Manual Series (DLMS-2, Chapter 900, Section 910). Copies of the DLMS Chapter may be obtained upon written request from the Office of Procurement and Grant Policy, Directorate of Procurement and Grant Management, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

[51 FR 40373, Nov. 6, 1986]

PART 2902—DEFINITIONS OF WORDS AND TERMS

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 2902.1—Definitions

2902.101 Definitions.

As used throughout this regulation, the following words and terms are used as defined in this subpart unless (a) the context in which they are used clearly requires a different meaning, or (b) a different definition is prescribed for a particular part or portion of a part:

Contracting activity means an agency or office within the Department with delegated procurement authority to manage contracting functions associated with its mission. Within the Office of the Assistant Secretary for Administration and Management, the National Capital Service Center is the contracting activity.

Head of procuring activity means the Assistant Secretary for Administration and Management; the Assistant Secretary for Employment and Training; the Assistant Secretary for Mine Safety and Health, and the Director, National Capital Service Center.

Head of the agency (also called *agency head*) means the Assistant Secretary for Administration and Management.

Head of the contracting activity (HCA) means the Assistant Secretary for Administration and Management; the Director, National Capital Service Cen-

ter, and the head of each DOL Agency and Office listed in 2901.603-1(b) who has overall responsibility for managing the contracting activity.

Procurement Executive means the Director, Directorate of Procurement and Grant Management, and is synonymous with the term *Senior Procurement Executive* defined at FAR subpart 2.1. Responsibilities of the Procurement Executive include appointing the DOL advocate for competition.

Procuring activity means the Office of the Assistant Secretary for Administration and Management; the Employment and Training Administration; the Mine Safety and Health Administration; and the National Capital Service Center.

[50 FR 8921, Mar. 5, 1985, as amended at 51 FR 40373, Nov. 6, 1986; 53 FR 3839, Feb. 9, 1988]

PART 2903—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 2903.1—Safeguards

Sec.

2903.101 Standards of conduct.

2903.101-3 Agency regulations.

Subpart 2903.2—Contractor Gratuities to Government Personnel

2903.203 Reporting suspected violations of the gratuities clause.

2903.204 Treatment of violations.

Subpart 2903.3—Reports of Identical Bids and Suspected Antitrust Violations

2903.302 Reporting identical bids.

2903.302-2 Reporting requirements.

Subpart 2903.4—Contingent Fees

2903.409 Misrepresentation or violation of the Covenant against Contingent Fees.

Subpart 2903.5—Other Improper Business Practices

2903.502 Subcontractor kickbacks.

Subpart 2903.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

2903.602 Exceptions.

2903.603 Responsibilities of the contracting officer.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8921, Mar. 5, 1985, unless otherwise noted.

Subpart 2903.1—Safeguards

2903.101 Standards of conduct.

2903.101-3 Agency regulations.

All DOL personnel engaged in acquisition related activities shall conduct such activities in a manner above reproach in every respect. See part 0 of title 29, CFR. Transactions relating to expenditure of public funds require the highest degree of public trust to protect the interests of the Government. See 2903.6 for requirements concerning contracting with current or former DOL employees.

Subpart 2903.2—Contractor Gratuities to Government Personnel

2903.203 Reporting suspected violations of the gratuities clause.

(a) *Action official.* The Director, Directorate of Procurement and Grant Management, is the DOL official authorized to take action pursuant to FAR 3.204(c) against a contractor if it is determined that a violation of the clause at FAR 52.203-3, Gratuities, has occurred. This authority may not be redelegated.

(b) *Referral.* Whenever a suspected violation of the clause at FAR 52.203-3, Gratuities, becomes known to a DOL employee, the matter shall be reported to the cognizant contracting officer. The report shall be in writing and shall clearly state the circumstances surrounding the incident or incidences where it is alleged that the contractor offered or gave a gratuity to a DOL employee and intended by the gratuity to obtain a contract or favorable treatment under a contract. The date(s), location(s), and name(s) of all parties involved in the incident shall be included in the report. The report shall also include a recommended course of action in accordance with FAR 3.204(c) and shall be submitted through the head of the contracting activity to the Director, Directorate of Procurement and Grant Management for disposition.

2903.204 Treatment of violations.

(a) *Notice of contractor.* After review of the report and consultation with the Office of the Solicitor and Office of the Inspector General, as appropriate, the Director, Directorate of Procurement and Grant Management shall determine further action to be taken. If requested, the contractor shall be provided with a formal notice which summarizes the events involving the suspected violations and affords the contractor the opportunity to take the action(s) listed under FAR 3.204(b). The notice shall contain a reasonable time limit for reply and shall be sent by certified mail, return receipt requested.

(b) *Action.* Based on the contractor's response to the notice; the results of any further discussions with the contractor, the counsel, or witnesses; the review of additional documentary evidence; and other pertinent information, the Director, Directorate of Procurement and Grant Management, shall make a final and binding decision on the action to be taken in accordance with FAR 3.204(c) and shall provide the contractor with a formal notice of such action.

[50 FR 8921, Mar. 5, 1985, as amended at 51 FR 40373, Nov. 6, 1986]

Subpart 2903.3—Reports of Identical Bids and Suspected Antitrust Violations

2903.302 Reporting identical bids.

2903.302-2 Reporting requirements.

Potential anti-competitive practices, such as described in FAR 3.301, and antitrust law violations as described in FAR 3.303, evidenced in bids or proposals shall be reported to the Office of the Solicitor through the Head of the Contracting Activity with a copy to the Director, Directorate of Procurement and Grant Management. The Office of the Solicitor will provide reports to the Attorney General as appropriate.

Subpart 2903.4—Contingent Fees**2903.409 Misrepresentation or violation of the Covenant against Contingent Fees.**

(a) Suspected misrepresentation or violations of the Covenant Against Contingent Fees shall be documented and reported promptly to the contracting officer for review and action under FAR 3.409.

(b) Suspected fraudulent or criminal violations shall be documented in a report and submitted by the contracting officer to the Office of the Solicitor prior to initiation of any actions outlined in FAR 3.409(b). A copy of the report shall be submitted to the Director, Directorate of Procurement and Grant Management.

Subpart 2903.5—Other Improper Business Practices**2903.502 Subcontractor kickbacks.**

(a) Reports on suspected violations of the Antikickback Act as required by FAR 3.502(b) shall be prepared by the contracting officer and submitted by the head of the contracting activity to the Office of the Solicitor for further action. A copy of the report shall be submitted to the Director, Directorate of Procurement and Grant Management.

(b) The head of the contracting activity may initiate debarment or suspension action in accordance with FAR 9.406–2 or 9.407–2 and 2909.4 of this chapter.

Subpart 2903.6—Contracts With Government Employees or Organizations Owned or Controlled by Them**2903.602 Exceptions.**

(a) The Assistant Secretary for Administration and Management is authorized to except a contract from the policy in FAR 3.601.

(b) Negotiated contracts or grants or amendments to existing contracts or grants which constitute new acquisition (including those for the rental of real or personal property) may be entered into with former employees of DOL or with firms in which former employees are known to have a substantial interest, within a period of 1 year subsequent to the termination of the individual's employment by DOL, only with the prior written approval of the Assistant Secretary for Administration and Management.

2903.603 Responsibilities of the contracting officer.

Approval of a decision to grant an exception as provided in 2903.602 shall be documented by a written determination and findings prepared by the contracting officer for signature by the Assistant Secretary for Administration and Management. The determination and findings shall document compliance with FAR 3.603 and 2909.5; specify the compelling reason(s) for award; and be placed in the contract file.

PART 2904—ADMINISTRATIVE MATTERS

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8922, Mar. 5, 1985, unless otherwise noted.

Subpart 2904.6—Contract Reporting**2904.601 Federal Procurement Data System.**

(a) DOL's data collection point is the Office of Procurement and Grant Policy, Directorate of Procurement and Grant Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

(b) The SF 279, Individual Contract Action Report (over \$10,000), and SF 281, Summary of Contract Actions of \$10,000 or less, are due monthly on the tenth day of the month.

SUBCHAPTER B—ACQUISITION PLANNING

PART 2905—PUBLICIZING CONTRACT ACTIONS

Subpart 2905.2—Synopsis of Proposed Contract Actions

Sec.

2905.202 Exceptions.

Subpart 2905.4—Release of Information

2905.403 Requests from Members of Congress.

2905.404 Release of long-range acquisition estimates.

2905.404-1 Release procedures.

Subpart 2905.5—Paid Advertisements

2905.502 Authority.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8922, Mar. 5, 1985, unless otherwise noted.

Subpart 2905.2—Synopsis of Proposed Contract Actions

2905.202 Exceptions.

The Procurement Executive is authorized to make the determination prescribed in FAR 5.202(b). A written determination documenting the reasons why advance notice is not appropriate or reasonable shall be submitted by the HCA to the Director, Directorate of Procurement and Grant Management, for appropriate action including communication with the officials listed in FAR 5.202(b).

[51 FR 40374, Nov. 6, 1986]

Subpart 2905.4—Release of Information

2905.403 Requests from Members of Congress.

In addition to having access to the information available to the general public, Members of Congress shall, upon their request, be given full and detailed information regarding any particular DOL procurement. The information provided shall be fully responsive to the member's request unless such a response would disclose classified matter, information not to

be released pursuant to law, business confidential information or information which would be prejudicial to the competitive process. The contracting officer shall promptly consult with the Office of the Solicitor and the Office of Legislative and Intergovernmental Affairs to determine whether circumstances exist which will allow the release of additional information. In such instances, the Congressional requestor shall be furnished an interim reply providing the information which is readily releasable. The interim reply shall describe the problem which precludes release of any requested materials and describe generally what steps, if any, are being taken to make such information available.

2905.404 Release of long-range acquisition estimates.

2905.404-1 Release procedures.

(a) Heads of contracting activities are authorized to release long-range acquisition estimates under the conditions in FAR 5.404-1.

(b) Offices contemplating the release of long-range acquisition planning estimates shall coordinate with the Office of Information and Public Affairs in advance of the release of such planning estimates.

Subpart 2905.5—Paid Advertisements

2905.502 Authority.

When it is deemed necessary to use paid advertisements in newspapers and trade journals, written authority for such publication shall be obtained from the Head of the Contracting Activity or designee.

PART 2906—COMPETITION REQUIREMENTS

Subpart 2906.2—Full and Open Competition After Exclusion of Sources

Sec.

2906.202 Establishing or maintaining alternative sources.

2906.202

Subpart 2906.3—Other Than Full and Open Competition

2906.303 Justifications.
2906.303-1 Requirements.

Subpart 2906.5—Competition Advocates

2906.501 Requirement.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 51 FR 40374, Nov. 6, 1986, unless otherwise noted.

Subpart 2906.2—Full and Open Competition After Exclusion of Sources

2906.202 Establishing or maintaining alternative sources.

The Procurement Executive is authorized to make the determination prescribed in FAR 6.202(b). A written determination shall be submitted by the HCA to the Director, Directorate of Procurement and Grant Management.

Subpart 2906.3—Other Than Full and Open Competition

2906.303 Justifications.

2906.303-1 Requirements.

(a) As prescribed in the Department of Labor Manual Series (DLMS) 2, Chapter 830, any proposed noncompetitive acquisitions in excess of the small purchases limitation must be fully justified, submitted to the DOL Procurement Review Board and approved by the Assistant Secretary for Administration and Management and, in the case of research contracts, by the Assistant Secretary for Policy.

(b) The contracting officer is responsible for assuring that proposed acquisitions below the dollar level specified in paragraph (a) of this section are in compliance with FAR and DOLAR requirements regarding competition.

Subpart 2906.5—Competition Advocates

2906.501 Requirement.

(a) The Competition Advocate for the Department of Labor is the Director, Office of Procurement and Grant Policy, Directorate of Procurement and Grant Management, OASAM.

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(b) The head of the agency has delegated the authority to the Procurement Executive to appoint the Agency and Procuring Activity Competition Advocates. The Procurement Executive has delegated authority to the Head of the Procuring Activity to appoint Procuring Activity Competition Advocates.

PART 2907—ACQUISITION PLANNING

Subpart 2907.1—Acquisition Plans

Sec.

2907.102 Policy.

Subpart 2907.3—Contractor Versus Government Performance

2907.307 Appeals.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 2907.1—Acquisition Plans

2907.102 Policy.

DOL Agencies and Offices shall develop acquisition plans for major system acquisitions and major projects in accordance with FAR subpart 7.1 when the potential benefit justifies their development. The Directorate of Procurement and Grant Management and the Procurement Review Board will review each DOL Agency/Office Annual Advance Procurement Plan to ensure compliance with this subpart.

[50 FR 8922, Mar. 5, 1985]

Subpart 2907.3—Contractor Versus Government Performance

2907.307 Appeals.

An appeal of a decision to convert to contract or to continue in-house performance may be made by an affected party. Appeals shall be made in writing, be based only on specific alleged material deviation (or deviations), from OMB Circular A-76, and be supported by appropriate documentation. Appeals must be delivered within 15 working days of the announced decision, through the contracting officer

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and the Director, Directorate of Procurement and Grant Management, to the Under Secretary.

[50 FR 8922, Mar. 5, 1985]

PART 2908—REQUIRED SOURCES OF SUPPLIES AND SERVICES

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 2908.8—Acquisition of Printing and Related Supplies

2908.802 Policy.

(a) The Office of Printing, Directorate of Administrative Services and Safety and Health Programs, has been designated as the DOL liaison with the Joint Committee on Printing (JCP) and the Public Printer, Government Printing Office (GPO), on all matters related to printing.

(b) Except as provided in paragraphs 35-2 through 35-4 of the "Government Printing and Binding Regulations" of the Congressional Joint Committee on Printing, inclusion of printing as defined in FAR 8.801 in contracts for supplies and services is prohibited unless specifically approved in writing by the Directorate of Administrative Services and Safety and Health Programs.

[50 FR 8923, Mar. 5, 1985]

PART 2909—CONTRACTOR QUALIFICATIONS

Subpart 2909.1—Responsible Prospective Contractors

Sec.

2909.105 Procedures.

2909.105-1 Obtaining information.

Subpart 2909.4—Debarment, Suspension, and Ineligibility

2909.400 Scope of subpart.

2909.404 Consolidated List of Debarred, Suspended, and Ineligible Contractors.

2909.405 Effect of listing.

2909.405-1 Continuation of current contracts.

2909.406 Debarment.

2909.406-1 General.

2909.406-3 Procedures.

2909.407 Suspension.

2909.407-1 General.

2909.407-3 Procedures.

Subpart 2909.5—Organizational Conflicts of Interest

2909.503 Waiver.

2909.507 Procedures.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8923, Mar. 5, 1985, unless otherwise noted.

Subpart 2909.1—Responsible Prospective Contractors

2909.105 Procedures.

2909.105-1 Obtaining information.

(a) In addition to the sources of information listed in FAR 9.105-1(c) to support determinations of responsibility or nonresponsibility, the contracting officer shall use, if available, performance evaluation reports on section 8(a) contractors (section 8(a) of the Small Business Act as amended (15 U.S.C. 637(a)) and construction and architect-engineer contractors (see 2936.201 and 2936.604).

(b) Contracting officers may obtain credit reports prior to the issuance of any loan, loan guarantee, contract or grant through the credit bureau service. The National Capital Service Center will award a contract for the credit bureau service for use by all DOL contracting activities until such services become available through an established GSA Federal Supply Schedule.

[50 FR 8923, Mar. 5, 1985, as amended at 51 FR 40374, Nov. 6, 1986]

Subpart 2909.4—Debarment, Suspension, and Ineligibility

2909.400 Scope of subpart.

This subpart prescribes DOL policies and procedures governing the debarment and suspension of contractors, the listing of debarred and suspended contractors, contractors declared ineligible (see FAR 9.403) and distribution of the list.

2909.404 Consolidated List of Debarred, Suspended, and Ineligible Contractors.

(a) The Directorate of Procurement and Grant Management, is responsible for accomplishing the actions required in FAR 9.404(c).

(b) The Directorate of Procurement and Grant Management, upon receipt of monthly issues of the consolidated list from GSA, shall distribute the issues to the heads of contracting activities.

(c) Weekly supplements to monthly lists shall be furnished to the heads of contracting activities by the Directorate of Procurement and Grant Management.

2909.405 Effect of listing.

The Director, Directorate of Procurement and Grant Management, is authorized to make the determinations listed in FAR 9.405(a). Requests for such determinations shall be submitted by the head of the contracting activity to the Director, Directorate of Procurement and Grant Management.

2909.405-1 Continuation of current contracts.

The Director, Directorate of Procurement and Grant Management, is authorized to take the actions listed in FAR 9.405-1.

2909.406 Debarment.

2909.406-1 General.

(a) The Director, Directorate of Procurement and Grant Management, is the debarring official for DOL and is authorized to debar a contractor for any of the causes in FAR 9.406-2, using the procedures in 2909.406-3.

(b) Exceptions to debarment made by another Executive Agency shall be made by the Director, Directorate of Procurement and Grant Management, in accordance with the conditions in FAR 9.406-1(c).

2909.406-3 Procedures.

(a) *Investigation and referral.* Whenever a cause for debarment, as listed in FAR 9.406-2, becomes known to a DOL employee, the head of the contracting activity affected shall be notified. The head of the contracting activity shall consult with the Office of the Solicitor and the Office of the Inspector General, as appropriate, and submit a formal recommendation which documents the cause for debarment to the Director, Directorate of Procurement and Grant Management.

(b) *Notice of proposal to debar.* Based upon review of the recommendation to debar and consultation with the Office of the Solicitor and Office of the Inspector General, as appropriate, the Director, Directorate of Procurement and Grant Management, shall initiate proposed debarment by taking the actions listed in FAR 9.406-3(c) and advising the contractor of DOL's rules under 2909.4.

(c) *Factfinding proceedings.* For actions listed under FAR 9.406-3(b)(2), the Director, Directorate of Procurement and Grant Management, shall afford the contractor the opportunity to appear at an informal factfinding as required by FAR 9.406-3(b)(2)(i). The hearing shall be conducted by the Office of Administrative Law Judges and shall be held at a date and location convenient to the parties concerned. Subject to the provisions of 29 CFR part 18, the contractor and any specifically named affiliates, may be represented by counsel or any duly authorized representative. Witnesses may be called by either party. The proceedings shall be conducted expeditiously and in such a manner that each party will have a full opportunity to present all information considered pertinent to the proposed debarment. A transcript of the proceedings shall be made available to the contractor under the conditions in FAR 9.406-3(b)(2)(ii).

(d) *Decision and notice.* The Director, Directorate of Procurement and Grant Management, shall make a decision on imposing debarment in accordance with the procedures in FAR 9.406-3(d), findings of fact of the Administrative Law Judge, and the conditions in FAR 9.406-4 and 9.406-5. Notice of the decision shall be provided to the contractor and any affiliates involved in accordance with the procedures in FAR 9.406-3(e).

2909.407 Suspension.

2909.407-1 General.

(a) The Director, Directorate of Procurement and Grant Management, is the suspending official for DOL and is authorized to suspend a contractor for any of the causes in FAR 9.407-2, using the procedures in 2909.407-3.

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(b) The Director, Directorate of Procurement and Grant Management, is authorized to make the statement regarding suspension by another agency suspending official under the conditions in FAR 9.407-1(d).

2909.407-3 Procedures.

(a) *Investigation and referral.* Whenever a cause for suspension, as listed in FAR 9.406-2, becomes known to a DOL employee, the head of the contracting activity affected shall be notified. The head of the contracting activity shall consult with the Office of the Solicitor and the Office of the Inspector General, as appropriate, and submit a formal recommendation, which documents the cause for suspension, to the Director, Directorate of Procurement and Grant Management.

(b) *Notice of suspension.* Based upon review of the recommendation to suspend and consultation with the Office of the Solicitor and the Office of the Inspector General, as required, the Director, Directorate of Procurement and Grant Management, shall initiate suspension by taking the actions listed in FAR 9.407-3(c) and advising the contractor of DOL's rules under 2909.4.

(c) *Factfinding proceedings.* For actions listed under FAR 9.407-3(b)(2), the Director, Directorate of Procurement and Grant Management, shall afford the contractor the opportunity to appear at an informal hearing as required by FAR 9.407-3(b)(2)(i). The hearing shall be conducted under the conditions in 2909.407-3(c).

(d) *Suspension decisions.* The Director, Directorate of Procurement and Grant Management, shall make a final decision on suspension as prescribed in FAR 9.407-3(d). Notice of the decision shall be provided to the contractor and any affiliates involved in accordance with the provisions in FAR 9.407-3(d)(4).

Subpart 2909.5—Organizational Conflicts of Interest

2909.503 Waiver.

(a) The Director, Directorate of Procurement and Grant Management, is authorized to waive any general rule or procedure in FAR 9.5 when its application in a particular situation would not

be in the Government's interest. Pursuant to FAR 9.503, this authority may not be redelegated.

(b) Requests for waivers shall be made by the head of the contracting activity to the Director, Directorate of Procurement and Grant Management. Each request shall include:

(1) An analysis of the facts involving the potential or actual conflict including benefits and detriments to the Government and prospective contractors;

(2) A discussion of the factors which preclude avoiding, neutralizing, or mitigating the conflict; and

(3) Identification of the provision(s) in FAR subpart 9.5 to be waived.

(c) In making determinations under 2909.503(a), the Director, Directorate of Procurement and Grant Management, shall request the opinion of the Office of the Solicitor.

2909.507 Procedures.

(a) If a prospective contractor disagrees with the decision of a contracting officer regarding an organizational conflict of interest provision and requests higher level review in accordance with FAR 9.507(c)(4) the matter shall be referred to the Director, Directorate of Procurement and Grant Management for review and final decision.

(b) Referrals shall be made by the head of the contracting agency concerned and include the contracting officer's decision and the position of the prospective contractor.

(c) In making determinations under 2909.507(a), the Director, Directorate of Procurement and Grant Management, shall request the opinion of the Office of the Solicitor.

PART 2910—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

Sec.

2910.004 Selecting specifications or descriptions for use.

2910.004-70 Brand name products or equal.

2910.007 Deviations.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8924, Mar. 5, 1985, unless otherwise noted.

2910.004 Selecting specifications or descriptions for use.

(a) In accordance with FAR 10.1004(b)(2), purchase descriptions shall not specify a product, or specific feature of a product, peculiar to a manufacturer unless it is determined in writing by the Office initiating the purchase request that the product, or specific product feature, is essential to the Government's requirements and other similar products will not meet these requirements. This determination shall be in writing and shall accompany the purchase requisition.

(b) A "brand name or equal" purchase description shall be used only under the conditions listed in FAR 10.004(b)(3) and in accordance with the policies and procedures in 2910.004-70.

2910.004-70 Brand name products or equal.

(a) *Limitations on use.* The identification of a requirement in a purchase description by use of one or more brand name products followed by the words "or equal" shall be used only under the conditions listed in FAR 10.004(b)(3). A "brand name product" means a current commercial product of a manufacturer described by its brand name, make, model number, catalog designation, or other description by which it is regularly offered for sale to the public in the commercial market place.

(b) *Invitation requirements.* (1) "Brand name or equal" purchase descriptions in invitations shall identify salient characteristics of the product (see 2910.004-70(b)(2)) and contain the following information to describe the specific item:

(i) Identification of the item by generic descriptions;

(ii) Make, model number, catalog designation (or other description), and identification of commercial catalog where it is listed; and

(iii) Name of manufacturer, producer, or distributor of the item and complete address.

(2) In accordance with the policy in FAR 10.002, whenever a "brand name or equal" purchase description is used, offerors shall be given the opportunity

to offer products equal to the brand name if those products (including modifications thereto) satisfy the minimum needs of the Government. Therefore, all salient characteristics of the "brand name or equal" product which are determined by the office initiating the purchase request to be essential to the Government's minimum needs shall be identified separately under the heading of "Salient Characteristics" and included in the purchase description contained in the solicitation so the offeror understands the information to be submitted with its bid when offering an "equal" product for evaluation. In addition, the following certification shall be included at the end of each "brand name or equal" description in a solicitation for an offeror to identify its "equal" product:

Offerors proposing to furnish an "equal" product, in accordance with the "Brand Name or Equal" provision of this solicitation, shall insert the following description for the product.

Bidding on: _____
 Manufacturer's Name: _____
 Address: _____
 Product Name (if any): _____
 Product make, model, or catalog description: _____

Offerors shall also be responsible for submitting all additional information on the above product necessary for the Government to determine whether the product offered meets the salient characteristics of the "brand name" as listed in the solicitation.

2910.007 Deviations.

(a) Heads of contracting activities are authorized to approve deviations and exceptions to specifications or standards listed in the Index of Federal Specifications and Standards when the exceptions listed under FAR 10.006 do not apply. The Director, Directorate of Procurement and Grant Management, shall be notified formally and provided a copy of each deviation or exception approved.

(b) Heads of contracting activities are responsible for accomplishing the actions required under FAR 10.007.

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 2913—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

Subpart 2913.1—General

Sec.

2913.106 Competition and price reasonableness.

2913.107 Solicitation and evaluation of quotations.

Subpart 2913.3—Fast Payment Procedure

2913.301 General.

Subpart 2913.4—Imprest Fund

2913.403 Agency responsibilities.

Subpart 2913.5—Purchase Orders

2913.503 Obtaining contractor acceptance and modifying purchase orders.

2913.503-70 Duplicate purchase orders.

2913.505 Purchase order and related forms.

2913.505-2 Agency order forms in lieu of optional forms 347 and 348.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8925, Mar. 5, 1985, unless otherwise noted.

Subpart 2913.1—General

2913.106 Competition and price reasonableness.

When other than the lowest responsive quotation from a responsible supplier is used as the basis for the purchase, the Contracting Officer shall include in the purchase file documentation of the reason(s) for rejecting any lower quotation and the name of the individual responsible for making the determination to reject such quotation.

2913.107 Solicitation and evaluation of quotations.

Standard Form 18, Request for Quotations, shall be used as prescribed in FAR 13.107(a) unless an agency equivalent form has been authorized for use by the Director, Directorate of Procurement and Grant Management.

Subpart 2913.3—Fast Payment Procedure

2913.301 General.

The fast payment procedure delineated in FAR subpart 13.3 shall not be utilized by DOL.

Subpart 2913.4—Imprest Fund

2913.403 Agency responsibilities.

The DOL “Imprest Fund Handbook” incorporated in the Department of Labor Manual Series (DLMS 6, Chapter 1900, Handbook DLMS 6-5) contains internal DOL procedures for establishment, maintenance and use of imprest funds. Copies of the handbook may be obtained upon written request from the Directorate of Procurement and Grant Management, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

[50 FR 8925, Mar. 5, 1985, as amended at 51 FR 40374, Nov. 6, 1986]

Subpart 2913.5—Purchase Orders

2913.503 Obtaining contractor acceptance and modifying purchase orders.

2913.503-70 Duplicate purchase orders.

If the vendor reports non-receipt, loss or other inability to locate an original purchase order and requests another copy, the purchasing officer may issue to the vendor a duplicate copy as the vendor’s basis of performance. This second issue should be conspicuously marked “Duplicate Copy.” To avoid the possibility of a duplicate shipment, a letter of transmittal or a notation on the purchase order should read as follows:

This is a duplicate copy of the lost original purchase order, furnished in accordance with

2913.505

your request of _____ (Date). The Government will not be responsible for duplicate shipment.

[50 FR 8925, Mar. 5, 1985, as amended at 51 FR 40374, Nov. 6, 1986]

2913.505 Purchase order and related forms.

2913.505-2 Agency order forms in lieu of optional forms 347 and 348.

Department of Labor Form 1-90 (DL Form 1-90), entitled "Purchase Order" may be used by DOL in lieu of Optional Forms 347 and 348 prescribed in FAR 13.505.

PART 2914—SEALED BIDDING

Subpart 2914.2—Solicitation of Bids

Sec.

2914.203 Methods of soliciting bids.

2914.203-2 Dissemination of information concerning invitation for bids.

2914.205 Solicitation mailing lists.

2914.205-1 Establishment of lists.

Subpart 2914.4—Opening of Bids and Award of Contract

2914.404 Rejection of bids.

2914.404-1 Cancellation of invitations after opening.

2914.406 Mistakes in bids.

2914.406-3 Other mistakes disclosed before award.

2914.406-4 Disclosure of mistakes after award.

2914.407 Award.

2914.407-8 Protests against award.

2914.407-70 Award when only one bid is received.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8925, Mar. 5, 1985, unless otherwise noted.

Subpart 2914.2—Solicitation of Bids

2914.203 Methods of soliciting bids.

2914.203-2 Dissemination of information concerning invitation for bids.

Procedures for obtaining approval for paid advertisements in newspapers are contained in 2905.502.

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2914.205 Solicitation mailing lists.

2914.205-1 Establishment of lists.

In accordance with FAR 14.205-1(b), prospective bidders which submit solicitation mailing list applications shall be notified by the Contracting Activity when added to a mailing list unless the bidder is expected to be issued a solicitation within thirty days after Government receipt of the application.

Subpart 2914.4—Opening of Bids and Award of Contract

2914.404 Rejection of bids.

2914.404-1 Cancellation of invitations after opening.

The head of the contracting activity (HCA) is authorized to make the written determination required by FAR 14.404-1(c).

[51 FR 40374, Nov. 6, 1986]

2914.406 Mistakes in bids.

2914.406-3 Other mistakes disclosed before award.

(a) The Director, Directorate of Procurement and Grant Management, is authorized to make the administrative determinations under FAR 14.406-3. This authority may not be redelegated except as set forth in paragraph (b) of 2914.406-3.

(b) If (1) a bidder requests permission to withdraw a bid rather than correct it, and (2) the evidence is determined convincing as to the mistake or (3) the evidence reasonably supports the existence of a mistake but is not clear and convincing, the head of the contracting office is authorized to make a written determination permitting the bidder to withdraw the bid after review, in accordance with established procedures, and concurrence by the appropriate Office of the Solicitor. Copies of all determinations made pursuant to this authority shall be promptly transmitted to the Director, Directorate of Procurement and Grant Management. If evidence of the intended bid is clear and convincing, even though the bidder has not requested permission to correct the bid, the case shall be processed in accordance with paragraph (c) of 2914.406-3.

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(c) Suspected or alleged mistakes in bids shall be processed in accordance with the requirements of FAR 14.406-3(g). The contracting officer shall submit a report together with the supporting data described in FAR 14.406-3(g)(3) through the head of the contracting activity to the Director, Directorate of Procurement and Grant Management.

(d) The Director, Directorate of Procurement and Grant Management, is responsible for maintaining records of administrative determinations as required in FAR 14.406-3(h).

2914.406-4 Disclosure of mistakes after award.

(a) The head of the contracting activity is authorized to make the administrative determinations in FAR 14.406-4 after concurrence is received from the Office of the Solicitor as required by FAR 14.406-4(d). This authority may not be redelegated.

(b) The contracting officer shall process a mistake and prepare a case file in accordance with the requirements of FAR 14.604-4(e). The file shall be submitted to the head of the contracting activity for determination.

2914.407 Award.

2914.407-8 Protests against award.

See DOLAR subpart 2933.1, "Protests".

[51 FR 40374, Nov. 6, 1986]

2914.407-70 Award when only one bid is received.

When only one bid is received in response to an invitation for bids, such bid may be considered and accepted if the contracting officer makes a written determination that (a) the specifications used in the invitation were not unduly restrictive, (b) adequate competition was solicited and it could have been reasonably assumed that more than one bid would have been submitted, (c) the price is reasonable, and (d) the bid is otherwise in accordance with the invitation for bids. Such a determination shall be placed in the contract file.

PART 2915—CONTRACTING BY NEGOTIATION

Subpart 2915.4—Solicitation and Receipt of Proposals and Quotations

2915.404 Presolicitation notices and conferences.

2915.405 Solicitations for information or planning purposes.

2915.405-1 General.

2915.413 Disclosure and use of information before award.

2915.413-1 Alternate I.

Subpart 2915.5—Unsolicited Proposals

2915.505 Content of unsolicited proposals.

2915.505-1 Unsolicited research proposals.

2915.506 Agency procedures.

Subpart 2915.6—Source Selection

2915.607 Disclosure of mistakes before award.

2915.608 Proposal evaluation.

2915.612 Formal source selection.

Subpart 2915.8—Price Negotiation

2915.803 General.

2915.804 Cost or pricing data.

2915.804-3 Exemptions from or waiver of submission of certified cost or pricing data.

2915.805 Proposal analysis.

2915.805-5 Field pricing support.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8926, Mar. 5, 1985, unless otherwise noted.

Subpart 2915.4—Solicitation and Receipt of Proposals and Quotations

2915.404 Presolicitation notices and conferences.

A presolicitation conference (see FAR 15.404) shall not be used unless approved by the Head of the Contracting Activity or designee in accordance with Agency or Office procedures.

2915.405 Solicitations for information or planning purposes.

2915.405-1 General.

The written determination justifying use of a solicitation for information or planning purposes under FAR 15.405-1 shall be approved by the Head of the Contracting Activity before issuance of the solicitation.

2915.413

2915.413 Disclosure and use of information before award.

2915.413-1 Alternate I.

The Department of Labor shall employ the procedures in FAR Alternate I regarding disclosure and use of information.

Subpart 2915.5—Unsolicited Proposals

2915.505 Content of unsolicited proposals.

2915.505-1 Unsolicited research proposals.

In addition to the contents required by FAR 15.505, unsolicited proposals for research should contain a commitment to provide cost-sharing.

2915.506 Agency procedures.

(a) The contact points for submission of unsolicited proposals are those officials (Heads of Contracting Activities) with program responsibility listed in subpart 2901.6.

(b) Heads of Contracting Activities shall assure that unsolicited proposals are controlled, evaluated, safeguarded and disposed of in accordance with FAR subpart 15.5.

Subpart 2915.6—Source Selection

2915.607 Disclosure of mistakes before award.

The Head of the Contracting Activity is authorized to make the determination permitting proposal correction in accordance with the conditions in FAR 15.607(c)(3) and consultation with the Office of the Solicitor.

2915.608 Proposal evaluation.

The head of contracting activity (HCA) is authorized to make the determination required by FAR 15.608(b).

[51 FR 40374, Nov. 6, 1986]

2915.612 Formal source selection.

(a) The Head of the Contracting Activity shall determine when a formal source selection process shall be used and shall establish procedures for implementing the requirements in FAR 15.612.

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(b) The procedures established under paragraph (a) of this section shall be forwarded for the review and approval of the Director, Directorate of Procurement and Grant Management.

Subpart 2915.8—Price Negotiation

2915.803 General.

(a) Where the contractor insists on a price or demands a profit or fee that the contracting officer considers unreasonable, and the contracting officer has taken all authorized actions to resolve the matter (see FAR 15.803), the contract action shall be referred to the Head of the Contracting Activity for final resolution.

(b) Resolution under paragraph (a) of this section, shall be documented and signed by the Head of the Contracting Activity, and included in the contract file.

2915.804 Cost or pricing data.

2915.804-3 Exemptions from or waiver of submission of certified cost or pricing data.

(a) The Head of the Contracting Activity is authorized to approve the contracting officer's finding supporting the unreasonableness of the lowest price (see FAR 15.804-3(b)(2)(iii)).

(b) The Director, Directorate of Procurement and Grant Management, is authorized to waive the requirement for submission of certified cost or pricing data.

(c) Requests for waiver under paragraph (b) of this section, shall be submitted in writing by the Head of the Contracting Activity and shall contain a statement as to the reasons the waiver is necessary and the efforts made to obtain the data from the contractor or prospective contractor.

2915.805 Proposal analysis.

2915.805-5 Field pricing support.

(a) As prescribed in FAR 15.805-5(c), the contracting officer shall initiate a cost or pricing review by sending a written request to the Director, Directorate of Procurement and Grant Management, OASAM. The contracting officer shall allow at least 30 calendar

days when assigning a deadline for receipt of the cost and price analysis report.

(b) Upon receipt of the cost or pricing review report, the contracting officer and the price analyst (if assigned) shall discuss any questions regarding the contents of the report with the reviewer. If a question cannot be resolved, or agreement cannot be reached on a recommendation in the report, the contracting officer shall prepare a written statement for the contract file which discusses the issue(s) in question and supports a final decision on the matter. An information copy of the statement shall be promptly forwarded to the Director, Directorate of Procurement and Grant Management.

PART 2916—TYPES OF CONTRACTS

Subpart 2916.2—Fixed Price Contracts

Sec.

2916.203 Fixed-price contracts with economic price adjustment.

2916.203-4 Contract clauses.

Subpart 2916.3—Cost-Reimbursement Contracts

2916.306 Cost-plus-fixed-fee contracts.

Subpart 2916.6—Time-and-Materials, Labor-Hour, and Letter Contracts

2916.603 Letter contracts.

2916.603-2 Application.

Subpart 2916.7—Agreements

2916.702 Basic agreements.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8929, Mar. 5, 1985, unless otherwise noted.

Subpart 2916.2—Fixed Price Contracts

2916.203 Fixed-price contracts with economic price adjustment.

2916.203-4 Contract clauses.

An economic price adjustment clause based on cost indexes of labor or material may be used under the conditions listed in FAR 16.203-4(d) after approval by the Director, Directorate of Procurement and Grant Management, is obtained.

Subpart 2916.3—Cost-Reimbursement Contracts

2916.306 Cost-plus-fixed-fee contracts.

The Contracting Officer is authorized to approve the determination establishing the basis for application of the statutory price or fee limitation prescribed in FAR 16.306(c)(2).

[51 FR 40374, Nov. 6, 1986]

Subpart 2916.6—Time-and-Materials, Labor-Hour, and Letter Contracts

2916.603 Letter contracts.

2916.603-2 Application.

The Head of the Contracting Activity is authorized to extend the period for definitization of a letter contract required by FAR 16.603-2(c) in extreme cases where it is determined in writing that such action is in the best interest of the Government.

Subpart 2916.7—Agreements

2916.702 Basic agreements.

Copies of basic agreements negotiated with contractors in accordance with FAR 16.702 shall be furnished by the Head of the Contracting Activity to the Director, Directorate of Procurement and Grant Management, promptly after execution by the Government.

PART 2917—SPECIAL CONTRACTING METHODS

Subpart 2917.2—Options

Sec.

2917.203 Solicitations.

2917.206 Evaluation.

Subpart 2917.4—Leader Company Contracting

2917.402 Limitations.

Subpart 2917.5—Interagency Acquisitions Under the Economy Act

2917.502 General.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8929, Mar. 5, 1985, unless otherwise noted.

Subpart 2917.2—Options**2917.203 Solicitations.**

Option quantities in excess of the 50 percent limit prescribed in FAR 17.203(g)(2) may, in unusual circumstances, be approved by the Head of the Contracting Activity. The documentation required by FAR 17.205(a) shall include a written justification to fully support the need for such action.

2917.206 Evaluation.

The Head of the Contracting Activity shall make the written determination required by FAR 17.206(a). This determination is required before use of the solicitation provision at FAR 52.217-5, Evaluation of Options, is authorized. See FAR 17.208(c).

Subpart 2917.4—Leader Company Contracting**2917.402 Limitations.**

Use of leader company contracting for a product, subject to the limitations in FAR 17.402, shall require the advance authorization of the Director, Directorate of Procurement and Grant Management. Authorization requests shall document the circumstances requiring such action and shall be submitted by the Head of the Contracting Activity.

Subpart 2917.5—Interagency Acquisitions Under the Economy Act**2917.502 General.**

The head of the contracting activity is authorized to make the determination prescribed in FAR 17.502 in accordance with the requirements contained in FAR 17.503.

[51 FR 40374, Nov. 6, 1986]

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 2919—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Subpart 2919.2—Policies

Sec.

- 2919.201 General policy.
- 2919.202 Specific policies.
- 2919.202-2 Locating small business sources.
- 2919.202-5 Data collection and reporting requirements.
- 2919.202-70 Annual plans and program goals.

Subpart 2919.5—Set-Asides for Small Business

- 2919.501 General.
- 2919.503 Setting aside a class of acquisitions.
- 2919.503-70 Class set-aside for construction acquisitions.
- 2919.505 Rejection of set-aside recommendations.
- 2919.506 Withdrawal or modification of set-asides.

Subpart 2919.6—Certificates of Competency and Determinations of Eligibility

- 2919.602 Procedures.
- 2919.602-1 Referrals.

Subpart 2919.7—Subcontracting With Small Business and Small Disadvantaged Business Concerns

- 2919.705 Responsibilities of the contracting officer under the subcontracting assistance program.
- 2919.705-3 Solicitations.
- 2919.705-4 Reviewing the subcontracting plan.
- 2919.705-5 Awards involving subcontracting plans.
- 2919.705-6 Postaward responsibilities of the contracting officer.
- 2919.708 Solicitation provisions and contract clauses.

Subpart 2919.8—Contracting With the Small Business Administration

- 2919.802 Selecting firms for DOL acquisitions.
- 2919.803 Selecting acquisitions for the 8(a) program.
- 2919.810 Contract administration.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8929, Mar. 5, 1985, unless otherwise noted.

Subpart 2919.2—Policies

2919.201 General policy.

(a) The Director, Office of Small and Disadvantaged Business Utilization (OSDBU), is responsible for performing all functions and duties prescribed in FAR 19-201(c) and for:

(1) Developing and monitoring policies, procedures and regulations for effective administration of the Department's small business and small disadvantaged business program;

(2) Coordinating issues with the small and disadvantaged business specialist (SDBS) in each contracting office regarding the Department's small and small disadvantaged business program;

(3) Conducting surveys and reviews of DOL contracting offices related to the small business and small disadvantaged business program, recommending changes and corrective action, as appropriate; and

(4) Representing the Department before other Government agencies on matters primarily affecting small business, small disadvantaged business, women-owned business, historically black colleges and universities (HBCU), and advising the Under Secretary and other officials on matters relating to the program.

(b) The Head of the Contracting Activity, or designee, in addition to the requirements of FAR 19.201(b), shall be responsible for:

(1) Establishing annual goals for the small disadvantaged business programs; and

(2) Appointing, as prescribed in FAR 19.201(d), a small and disadvantaged business specialist (SDBS) for each contract office.

(c) The small and disadvantaged business specialist (SDBS) shall serve as advisor to the Head of the Contracting Activity, and shall be the contracting activity's central point of contact for inquiries and advice pertaining to the small business and small disadvantaged business program. The SDBS shall be responsible for:

(1) Maintaining a program to locate capable small business, small disadvantaged business, and women-owned business sources to fulfill the Department's acquisition requirements;

(2) Coordinating inquiries and requests for advice from small business, small disadvantaged business, women-owned business concerns and HBCU on DOL contracting and subcontracting opportunities and other acquisition matters;

(3) Ensuring that contracting offices are kept abreast of new or revised small business, small disadvantaged business, women-owned business and HBCU regulations, policies, procedures and other related information;

(4) Assisting in the Agency's advance acquisition planning process;

(5) Reviewing all requirements to assure that small business, small disadvantaged business, women-owned business, businesses located in labor surplus areas (LSA) and HBCU will be afforded an equitable opportunity to compete, and as appropriate, initiating recommendations for small business set-asides;

(6) Reviewing proposed requirements for possible breakout of items or services suitable for acquisition from participants of the small and disadvantaged business programs;

(7) Attending, as appropriate, debriefings to unsuccessful small business and small disadvantaged business concerns to assist those firms in understanding requirements for responsiveness and responsibility so that the firm may be able to better qualify for future awards;

(8) Participating in the evaluation of small business and small disadvantaged business subcontracting plans for prime contractors and other evaluation activities, as appropriate;

(9) Maintaining a list of products and services which have been placed as repetitive small business set-asides;

(10) Developing and maintaining records necessary to demonstrate maximum support for DOL's preferential programs, ensuring compilation of current, accurate, and complete data; and preparing all reports pertaining to program activities;

(11) Participating in the development, implementation, and review of

automated source systems to assure that the interest of small business, small disadvantaged business, women-owned business, and HBCU are fully considered;

(12) Participating, as required, in governmental-industry conferences to assist small business, disadvantaged business, women-owned business, and HBCU, including Congressionally-sponsored Federal acquisition conferences, minority business enterprises acquisition seminars, and business opportunity committee meetings;

(13) Initiating action, in writing, with appropriate personnel to assure the availability of adequate specifications and drawings, when necessary, to obtain small business, small disadvantaged business, women-owned business and HBCU participation in current and future acquisitions.

2919.202 Specific policies.

2919.202-2 Locating small business sources.

(a) It is the policy of the DOL to utilize the services of the SBA Procurement Automatic Source System (PASS) to identify small and small disadvantaged business sources. Obtaining sources from PASS or from local mailing lists does not negate the requirement that the contracting officer advertise the acquisition in accordance with FAR 5.

(b) Historically black colleges and universities shall be considered as sources for fulfilling requirements except for small business set-asides.

2919.202-5 Data collection and reporting requirements.

In addition to the requirements of FAR 19.202-5, DOL Agencies/Offices shall accurately measure the extent of participation by historically black colleges and universities in their acquisitions in terms of the total value of contracts placed with such organizations during each fiscal year, and report data to the OSDBU at the end of the second and fourth quarters of each fiscal year. The OSDBU shall forward the Department's consolidated data to the Department of Education.

2919.202-70 Annual plans and program goals.

(a) Heads of Contracting Activities shall develop annual goals for each category of the small business and small disadvantaged business utilization programs, which shall include projected acquisition awards to small businesses, minority businesses, 8(a) concerns, women-owned businesses, and HBCU.

(1) To the greatest extent possible, the goals shall be based on advance procurement plans, budget justifications, and past performance.

(2) Goals must comply with the criteria established by OSDDBU.

(b) Goals are to be submitted to the OSDDBU upon request of the Director. OSDDBU shall analyze and evaluate proposed goals, consolidate departmental goals and forward such to the Small Business Administration (SBA), the General Services Administration (GSA), and the Minority Business Development Agency (MBDA), Department of Commerce.

(c) OSDDBU may be required to negotiate final departmental goals, depending on SBA, GSA, and/or MBDA concurrence or nonconcurrence.

Subpart 2919.5—Set-Asides for Small Business**2919.501 General.**

(a) The SDBS shall review individual requirements prior to issuance of solicitations to determine the suitability of the acquisition for award to the SBA under the section 8(a) Program (see FAR 19.803).

(b) When the requirement cannot be awarded under section 8(a) procedures, the SDBS shall review individual requirements to determine the feasibility of small business set-asides in the order of precedence set forth in FAR 19.504. The SDBS recommendation shall be entered on Form DL1-2004, "Small Business Determination," with the reasons for the "pro" or "con" set-aside recommendation. The form shall be placed in the contract file.

(c) Upon receipt of the SDBS recommendation, the contracting officer shall promptly approve or disapprove the SDBS recommendation, stating in writing the reasons for any dis-

approval. If the contracting officer disapproves the SDBS recommendation, the proposed acquisition shall be promptly referred to the SBA PCR where available, for review; or where no SBA PCR is available, to the Head of the Contracting Activity. All negative recommendations shall be forwarded concurrently to the OSDDBU.

(d) All requirements expected to exceed \$10,000 which have not been set-aside for small business shall be further reviewed by the SBA PCR, who shall indicate approval or disapproval of the SDBS/contracting officer's negative recommendation on Form DL 1-2004. If the SBA disapproves the SDBS/contracting officer's recommendation, the proposed action shall be appealed as provided in FAR 19.402(c)(3).

(e) All future requirements for products or services previously acquired on a small business set-aside basis and which are not subject to simplified small purchase procedures, shall be acquired on the basis of a repetitive set-aside.

2919.503 Setting aside a class of acquisitions.**2919.503-70 Class set-aside for construction acquisitions.**

(a) Each requirement for construction, alterations, maintenance, and repair (including architect-engineer services), estimated to cost up to \$2 million shall be set aside for exclusive small business participation. Such set-asides shall be considered to be unilateral small business set-asides, and shall be withdrawn only in accordance with the procedures of FAR 19.506 and 2919.506 if found not to serve the best interest of the Government.

(b) Small business set-aside preferences for construction acquisitions in excess of \$2 million shall be considered on a case-by-case basis under conditions prescribed in FAR 19.502-2.

2919.505 Rejection of set-aside recommendations.

The Under Secretary of Labor shall make final decisions on any appeals of the Administrator of SBA concerning a DOL contracting officer's adverse set-aside recommendation. The contracting officer's written justification in support of the decision to reject the

set-aside recommendation shall be approved by the Head of the Contracting Activity. The justification shall then be forwarded for review through the Director, Directorate of Procurement and Grant Management, and the Director, OSDBU, to the Under Secretary of Labor.

2919.506 Withdrawal or modification of set-asides.

Disagreements between the contracting officer and the SDBS concerning withdrawals or modifications of individual or class set-asides shall be resolved by the SBA PCR in the National Office, or by the Head of the Contracting Activity where no SBA PCR is available. The SDBS shall concurrently notify the OSDBU of such disagreements.

Subpart 2919.6—Certificates of Competency and Determinations of Eligibility

2919.602 Procedures.

2919.602-1 Referrals.

Referrals by the contracting officer in accordance with FAR 19.602-1 shall be approved by the head of the contracting activity prior to submission to the appropriate SBA office. The contracting officer shall forward copies of each referral to the Director, OSDBU.

Subpart 2919.7—Subcontracting With Small Business and Small Disadvantaged Business Concerns

2919.705 Responsibilities of the contracting officer under the subcontracting assistance program.

2919.705-3 Solicitations.

The contracting officer shall forward to the OSDBU any solicitation expected to result in a contract exceeding \$500,000 (\$1 million for construction of a public facility) prior to release to the public to ensure that appropriate subcontracting provisions are included in the Request for Proposals or Invitations for Bids. The OSDBU shall be allowed up to five working days for review of the solicitation, depending on

the circumstances and complexity of the individual procurement.

2919.705-4 Reviewing the subcontracting plan.

The OSDBU shall be afforded the opportunity to review subcontracting plans submitted by apparent successful offerors to determine if small and small disadvantaged businesses are afforded the maximum practicable opportunity to participate as subcontractors. OSDBU shall recommend to the contracting officer needed changes to subcontracting plans determined to be unacceptable.

2919.705-5 Awards involving subcontracting plans.

The contracting officer shall forward for review, upon request of the Director, OSDBU, any acquisition package prior to execution of any negotiated contractual document requiring subcontracting plans.

2919.705-6 Postaward responsibilities of the contracting officer.

(a) The contracting officer shall forward to the Director, OSDBU, a copy of any subcontracting plan that was incorporated into a contract or contract modification.

(b) The contracting officer shall maintain a list of active prime contracts containing a subcontracting plan.

(c) Contracting officers shall collect quarterly and semi-annually subcontracting data from contractors required to establish subcontracting plans in support of small and small disadvantaged business concerns. Copies of the semi-annual report, Standard Form 294 (Subcontracting Report for Individual Contracts), and the quarterly report, Standard Form 295 (Summary Subcontracting Report), shall be forwarded to the Director, OSDBU, not later than the 30th day of the month following the close of the reporting period.

2919.708 Solicitation provisions and contract clauses.

Advance approval is required prior to including any small and small disadvantaged business concerns incentive

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subcontracting provisions in any contract. Requests for approval shall be submitted by the Head of the Contracting Activity through the Director, Directorate of Procurement and Grant Management, to the Director, OSDBU.

Subpart 2919.8—Contracting With the Small Business Administration

2919.802 Selecting firms for DOL acquisitions.

Contracting opportunities marketed by individual 8(a) firms may be reserved for the firm or group of firms which identified the opportunity; however, each 8(a) firm or group of firms nominated by DOL for a specific requirement must be approved by SBA for that particular requirement prior to any DOL technical discussions with the firm(s).

2919.803 Selecting acquisitions for the 8(a) program.

(a) Each DOL Agency shall identify in tentative Annual Advance Procurement Plans acquisitions to be fulfilled by 8(a) firms. Such tentative plans shall provide detailed descriptions of the nature of the services or work, or any other information pertinent to the requirement.

(b) Project officers shall also be responsible for cooperating with the OSDBU to actively locate and identify qualified 8(a) sources and to structure and tailor acquisitions to permit their participation.

2919.810 Contract administration.

(a) Contracting officers, or designees, shall conduct periodic evaluations relative to the performance of an 8(a) contract at various stages of the contract period of performance. Any problems encountered during the performance evaluation which cannot be resolved shall be referred to OSDBU for subsequent review and discussion with the appropriate SBA official.

(b) The OSDBU and SBA are to be notified at least 45 days prior to initiating final action to terminate a section 8(a) contract.

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PART 2920—LABOR SURPLUS AREA CONCERNS

Subpart 2920.1—General

Sec.

2920.102 General policy.

Subpart 2920.2—Set-Asides

2920.201 Set-asides for labor surplus area concerns.

2920.201–1 Total set-asides.

2920.201–70 Set-asides for construction acquisitions.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8932, Mar. 5, 1985, unless otherwise noted.

Subpart 2920.1—General

2920.102 General policy.

It is the policy of the Department of Labor (DOL) to award acquisitions with eligible labor-surplus area (LSA) concerns in accordance with FAR part 20. Responsibility for implementing the DOL LSA program is assigned to the Office of Small and Disadvantaged Business Utilization.

Subpart 2920.2—Set-Asides

2920.201 Set-asides for labor surplus area concerns.

2920.201–1 Total set-asides.

Acquisitions shall be reviewed for potential combined small business/LSA set-aside consideration in accordance with FAR 19.501 and 2919.501.

2920.201–70 Set-asides for construction acquisitions.

(a) As prescribed in 2919.503–70, all acquisitions for construction, alterations, maintenance and repair (including architect-engineer services) estimated to cost up to \$2 million shall be set-aside on a class basis for combined small business/LSA concern when the construction site is located in a LSA.

(b) Small business/LSA set-aside preference for construction acquisitions in excess of \$2 million shall be considered on a case-by-case basis under conditions prescribed in FAR 20.201–1.

PART 2922—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 2922.1—Basic Labor Policies

Sec.

2922.101 Labor relations.

2922.101–3 Reporting labor disputes.

2922.101–4 Removal of items from contractor facilities affected by work stoppage.

2922.103 Overtime.

2922.103–4 Approvals.

Subpart 2922.6—Walsh-Healy Public Contracts Act

2922.604 Exemptions.

2922.604–2 Regulatory exemptions.

2922.608 Procedures.

2922.608–4 Award pending final determination.

Subpart 2922.8—Equal Employment Opportunity

2922.803 Responsibilities.

2922.804 Affirmative action programs.

2922.804–2 Construction.

2922.805 Procedures.

2922.807 Exemptions.

Subpart 2922.13—Special Disabled and Vietnam Era Veterans

2922.1303 Waivers.

2922.1306 Complaint procedures.

Subpart 2922.14—Employment of the Handicapped

2922.1403 Waivers.

2922.1406 Complaint procedures.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8932, Mar. 5, 1985, unless otherwise noted.

Subpart 2922.1—Basic Labor Policies

2922.101 Labor relations.

2922.101–3 Reporting labor disputes.

Potential or actual labor disputes that may interfere with contract performance shall be reported by the contracting activity to the Office of the Solicitor for legal advice or assistance.

2922.101–4 Removal of items from contractor facilities affected by work stoppage.

Prior to initiating any action under FAR 22.101–4 for removal of items from contractors' facilities, the contracting officer shall obtain legal advice from the Office of the Solicitor.

2922.103 Overtime.

2922.103–4 Approvals.

The Head of the Contracting Activity is authorized to approve the use of overtime in accordance with the limitations in FAR 22.103–4(a).

Subpart 2922.6—Walsh-Healy Public Contracts Act

2922.604 Exemptions.

2922.604–2 Regulatory exemptions.

The Secretary of Labor may exempt contracts from the Walsh Healy Public Contracts Act under FAR 22.604(c). A written finding justifying the exemption (see FAR 22.604–2(c)) shall be submitted by the Head of the Contracting Activity to the Director, Directorate of Procurement and Grant Management, for further action.

2922.608 Procedures.

2922.608–4 Award pending final determination.

The contracting officer's certification for award under FAR 22.608–4(a) shall be approved by the Head of the Contracting Activity.

Subpart 2922.8—Equal Employment Opportunity

2922.803 Responsibilities.

Matters involving the applicability of Executive Order 11246 and implementing regulations of the Secretary of Labor to an acquisition or a class of acquisitions shall be reduced to writing by the contracting officer and forwarded through the Head of the Contracting Activity to the Director, Directorate of Procurement and Grant Management, for resolution.

2922.804 Affirmative action programs.

2922.804-2 Construction.

Heads of Contracting Activities are responsible for maintaining lists of geographical areas subject to affirmative action requirements under FAR 22.804-2. Lists of areas for which OFCCP has designated specific affirmative action requirements are available through OFCCP. The list, including updates or revisions, shall be distributed to all contract offices which acquire construction.

2922.805 Procedures.

The contract office shall maintain ample supplies of the poster (OFCCP-1420) entitled, "Equal Opportunity is the Law" for use as required in FAR 22-805(b). The poster (stock number 7690-00-926-8988) may be ordered from the nearest regional GSA Supply Depot.

2922.807 Exemptions.

(a) The Assistant Secretary for Administration and Management shall make the determinations in FAR 22.807(a)(1).

(b) Requests for exemptions under FAR 22.807 (a)(1), (a)(2), and (b)(5) shall be submitted in writing in accordance with FAR 22.807(c) by the contracting officer, through the Head of the Contracting Activity, to the Director, Directorate of Procurement and Grant Management, for further action.

Subpart 2922.13—Special Disabled and Vietnam Era Veterans

2922.1303 Waivers.

(a) The Assistant Secretary for Administration and Management is authorized to (1) waive any or all terms of the clause at FAR 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans, under the conditions prescribed in FAR 22.1303(a) and (2) waive any requirement in FAR subpart 22.13 as prescribed in FAR 22.1303(b).

(b) Requests for waivers under paragraph (a) of this section shall be made in writing by the contracting officer and submitted through the Head of the

Contracting Activity to the Director, Directorate of Procurement and Grant Management, for further action.

2922.1306 Complaint procedures.

The contracting office shall forward complaints received about the Administration of the Vietnam Era Veterans Readjustment Assistance Act of 1972 directly to the Assistant Secretary for Veteran's Employment Service, DOL, as prescribed in FAR 22.1306.

Subpart 2922.14—Employment of the Handicapped

2922.1403 Waivers.

(a) The Assistant Secretary for Administration and Management is authorized to (1) waive any or all of the terms of the clause at FAR 52.222-36, Affirmative Action for Handicapped Workers, under the conditions prescribed in FAR 22.1403(a) and (2) waive any requirement in FAR subpart 22.14 as prescribed in FAR 22.1403(b).

(b) Requests for waivers under paragraph (a) of this section, shall be made in writing by the contracting officer and submitted through the Head of the Contracting Activity to the Director, Directorate of Procurement and Grant Management.

2922.1406 Complaint procedures.

The contracting office shall forward complaints received about administration of section 503 of the Rehabilitation Act of 1973, as amended, directly to the OFCCP as prescribed in FAR 22.1406.

PART 2923—ENVIRONMENT, CONSERVATION, AND OCCUPATIONAL SAFETY

Subpart 2923.1—Pollution Control and Clean Air and Water

Sec.

2923.104 Exemptions.

2923.107 Compliance responsibilities.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8933, Mar. 5, 1985, unless otherwise noted.

Subpart 2923.1—Pollution Control and Clean Air and Water

2923.104 Exemptions.

(a) The Assistant Secretary for Administration and Management is authorized to exempt controls from the requirements of FAR subpart 23.1 under the conditions in FAR 23.104(c).

(b) Requests for exemption shall be made in writing by the contracting officer and forwarded through the Head of the Contracting Activity to the Director, Directorate of Procurement and Grant Management, for further action.

2923.107 Compliance responsibilities.

Conditions involving noncompliance with clean air or water standards in facilities used in performing nonexempt contracts shall be reported in writing by the contracting officer to the Head of the Contracting Activity for transmittal directly to the EPA Administrator in accordance with FAR 23.107. A copy of the report shall be promptly sent to the Director, Directorate of Procurement and Grant Management.

PART 2924—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 2924.1—Protection of Individual Privacy

Sec.

2924.103 Procedures.

Subpart 2924.2—Freedom of Information Act

2924.202 Policy.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 2924.1—Protection of Individual Privacy

2924.103 Procedures.

See 29 CFR part 70a.—Protection of Individual Privacy on Records, for the DOL Regulations relating to the maintenance or disclosure of information from systems of records on individuals.

[50 FR 8934, Mar. 5, 1985]

Subpart 2924.2—Freedom of Information Act

2924.202 Policy.

See 29 CFR part 70—Examination and Copying of Department of Labor Records, for the DOL regulations implementing the Freedom of Information Act.

[50 FR 8934, Mar. 5, 1985]

PART 2925—FOREIGN ACQUISITION

Subpart 2925.1—Buy American Act—Supplies

Sec.

2925.102 Policy.

2925.105 Evaluating offers.

2925.108 Excepted articles, materials, and supplies.

Subpart 2925.2—Buy American Act—Construction Materials

2925.202 Policy.

2925.203 Evaluating offers.

2925.204 Violations.

Subpart 2925.3—Balance of Payments Program

2925.302 Policy.

2925.304 Excess and non-excess foreign currencies.

Subpart 2925.7—Restrictions on Certain Foreign Purchases

2925.703 Exceptions.

Subpart 2925.9—Omission of the Examination of Records Clause

2925.903 Conditions for omission.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8934, Mar. 5, 1985, unless otherwise noted.

Subpart 2925.1—Buy American Act—Supplies

2925.102 Policy.

(a) The Assistant Secretary for Administration and Management shall make the determinations prescribed in FAR 25.102 (a)(2) and (a)(3).

(b) The Director, Directorate of Procurement and Grant Management,

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shall make the determination prescribed in FAR 25.102(a)(4) in accordance with the procedures in 2925.108.

(c) Determinations under paragraph (a) of this section shall be prepared by the contracting officer and submitted by the Head of the Contracting Activity to the Director, Directorate of Procurement and Grant Management, for further action.

2925.105 Evaluating offers.

(a) In unusual circumstances, the Assistant Secretary for Administration and Management may determine to use evaluation differentials other than those prescribed in FAR 25.105 for a particular acquisition.

(b) Requests for use of other evaluation differentials shall be directed by the Head of the Contracting Activity to the Director, Directorate of Procurement and Grant Management for further action.

2925.108 Excepted articles, materials, and supplies.

(a) Determinations for additional articles, materials, and supplies not included in the list under FAR 25.108(d) shall be made by the Director, Directorate of Procurement and Grant Management.

(b) Determinations shall be prepared by the contracting officer and submitted by the Head of the Contracting Activity for approval.

(c) Contracting activities which have information justifying the removal of an item from the list under FAR 25.108(d) shall submit such information to the Director, Directorate of Procurement and Grant Management, for further disposition as prescribed in FAR 25.108(c).

Subpart 2925.2—Buy American Act—Construction Materials

2925.202 Policy.

(a) The Assistant Secretary for Administration and Management shall make the determinations prescribed in FAR 25.202(a)(2) and 2925.203.

(b) The Director, Directorate of Procurement and Grant Management, shall make the determination pre-

scribed in FAR 25.202(a)(3) in accordance with the procedures in 2925.108.

(c) Determinations under paragraph (a) of this section shall be prepared by the contracting officer and submitted by the Head of the Contracting Activity to the Director, Directorate of Procurement and Grant Management, for further action.

2925.203 Evaluating offers.

Unless the Assistant Secretary for Administration and Management determines otherwise, when the cost of a comparable domestic construction material exceeds by more than 6 percent for large business or 12 percent for small business or labor surplus area set-aside the cost of a foreign construction material proposed in an offer, use of the domestic construction material would unreasonably increase the cost of the contract and use of the foreign construction material is authorized and acceptable. This evaluation shall be made for each foreign construction material proposed in an offer and not specifically excepted by the solicitation. The cost of construction material shall be computed to include all delivery costs to the construction site, and the cost of foreign construction material shall also include any applicable duty (whether or not a duty-free entry certificate may be issued). The acceptable offer that remains low after adding (for evaluation purposes only) 6 percent or 12 percent, as applicable, of the cost of all foreign construction materials shall be considered the successful offer. The contract awarded under these circumstances shall contain a list of the authorized foreign construction materials as required by FAR 25.202(c) and the clause at FAR 52.225-5, Buy American Act—Construction Materials.

2925.204 Violations.

Failure of the contractor to comply with the clause at FAR 52.225-5, Buy American Act—Construction Materials, shall be documented in a report by the contracting officer and submitted to the Head of the Contracting Activity for initiation of debarment action in accordance with subpart 2909.4.

Subpart 2925.3—Balance of Payments Program

2925.302 Policy.

(a) The Director, Directorate of Procurement and Grant Management, shall make the determination prescribed in FAR 25.302(b)(3) and 25.304(c). Differentials greater than 50 percent may be authorized as prescribed in FAR 25.302(c).

(b) Determinations under paragraph (a) of this section shall be prepared by the contracting officer and submitted by the Head of the Contracting Activity to the Director, Directorate of Procurement and Grant Management, for further action.

2925.304 Excess and non-excess foreign currencies.

The Director, Directorate of Procurement and Grant Management, shall consult with the Office of Management and Budget as required in FAR 25.304(c) prior to making the determination in 2925.302(a).

Subpart 2925.7—Restrictions on Certain Foreign Purchases

2925.703 Exceptions.

(a) The Assistant Secretary for Administration and Management is au-

thorized to approve exceptions, as prescribed in FAR 25.703, for all contracts other than small purchases.

(b) Determinations under paragraph (a) of this section shall be prepared by the contracting officer and submitted by the Head of the Contracting Activity to the Director, Directorate of Procurement and Grant Management, for further action.

Subpart 2925.9—Omission of the Examination of Records Clause

2925.903 Conditions for omission.

(a) The Assistant Secretary for Administration and Management shall make the determination prescribed in FAR 25.903 (a)(1) and (a)(2).

(b) Determinations under paragraph (a) of this section shall be prepared by the contracting officer in accordance with the requirements of FAR 25.904 and submitted by the Head of the Contracting Activity to the Director, Directorate of Procurement and Grant Management, for further action.

(c) The report required by FAR 25.903(b) shall be prepared and forwarded by the Directorate of Procurement and Grant Management.

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 2928—BONDS AND INSURANCE

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 2928.2—Sureties

2928.203 Options in lieu of sureties.

Upon receipt of any of the types of securities listed in FAR 28.203-1 (except bonds or notes received in the District of Columbia) or FAR 28.203-2, the contracting officer shall turn the securities over to the finance office.

[50 FR 8935, Mar. 5, 1985]

PART 2929—TAXES

Subpart 2929.1—General

Sec.

2929.101 Resolving tax problems.

Subpart 2929.3—State and Local Taxes

2929.303 Applications of State and local taxes to Government contractors and subcontractors.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 2929.1—General

2929.101 Resolving tax problems.

Contract tax problems or questions shall be referred by the contracting officer to the Office of the Solicitor for resolution.

[50 FR 8935, Mar. 5, 1985]

Subpart 2929.3—State and Local Taxes

2929.303 Applications of State and local taxes to Government contractors and subcontractors.

(a) Contractors to be treated as agents of the Government for the purposes set forth in FAR 29.303(a) shall require the written review and approval of the Assistant Secretary for Administration and Management.

(b) Requests for approval under paragraph (a) of this section shall be submitted by the Head of the Contracting Activity, through the Office of the So-

licitor, to the Director, Directorate of Procurement and Grant Management, for further action.

[50 FR 8935, Mar. 5, 1985]

PART 2930—COST ACCOUNTING STANDARDS

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 2930.3—CAS Contract Requirements

2930.304 Waiver.

(a) The Director, Directorate of Procurement and Grant Management, is authorized to waive CASB requirements as provided in FAR 30.304(c).

(b) Requests for waivers under paragraph (a) of this section shall be prepared by the contracting officer as prescribed in FAR 30.304(a) and submitted by the Head of the Contracting Activity.

[50 FR 8935, Mar. 5, 1985]

PART 2931—CONTRACT COST PRINCIPLES AND PROCEDURES

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 2931.1—Applicability

2931.101 Objectives.

Individual and class deviations concerning cost principles in FAR part 31 shall be processed as prescribed in subpart 2901.4.

[50 FR 8935, Mar. 5, 1985]

PART 2932—CONTRACT FINANCING

Subpart 2932.1—General

Sec.

2932.102 Description of contract financing methods.

Subpart 2932.4—Advance Payments

2932.402 General.

Subpart 2932.5—Progress Payments Based on Costs

2932.502 Preaward matters.

2932.502-2 Contract finance office clearance.

Subpart 2932.6—Contract Debts

2932.605 Responsibilities and cooperation among Government officials.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8935, Mar. 5, 1985, unless otherwise noted.

Subpart 2932.1—General**2932.102 Description of contract financing methods.**

(a) Progress payments based on a percentage or stage of completion accomplished are authorized for use in contracts for construction, alteration, or repair.

(b) The Head of the Contracting Activity, or designee, is authorized to approve the use of progress payments based on percentage or stage of completion accomplished for contracts other than those listed in paragraph (a) of this section.

(c) Requests for approval under paragraph (b) of this section, shall be in the form of a written determination by the contracting officer that:

(1) Use of progress payments based on costs (see FAR subpart 32.5) is impracticable; and

(2) Adequate measures exist for determining percentage or stage of completion as a basis for determining payment.

Subpart 2932.4—Advance Payments**2932.402 General.**

(a) The Director, Directorate of Procurement and Grant Management, is authorized to approve findings and determinations and contract terms for advance payments as prescribed in FAR subpart 32.4.

(b) The contracting officer shall review and analyze the contractor's application for advance payments to determine if it meets the information requirements of FAR 32.408. Applications which do not contain the required information shall not be processed until

such information is obtained from the contractor.

(c) The contracting officer shall submit a recommendation for approval or disapproval of the contractor's request through the Head of the Servicing Finance Office (see FAR 32.402(e)(2)) to the Head of the Contracting Activity for transmittal to the Director, Directorate of Procurement and Grant Management, under paragraph (a) of this section. Recommendations which do not contain the information required by FAR 32.409-1 or FAR 32.409-2 will not be processed by the Directorate of Procurement and Grant Management.

Subpart 2932.5—Progress Payments Based on Costs**2932.502 Preaward matters.****2932.502-2 Contract finance office clearance.**

(a) The contracting officer shall obtain the approval of the Head of the Contracting Activity before providing a progress payment rate higher than the customary rates prescribed in FAR 32.501-1.

(b) For deviations to progress payment terms prescribed under FAR part 32, the contracting officer shall obtain approval as prescribed in 2901.403.

(c) The contracting officer shall obtain the approval of the servicing finance office for the contract before taking the action in FAR 32.502-2.

Subpart 2932.6—Contract Debts**2932.605 Responsibilities and cooperation among Government officials.**

(a) The DOL contracting officer has primary responsibility for determining the amount of contract debt and notifying the cognizant finance office of such debt due the Government. The servicing DOL finance office making payments under the contract has primary responsibility for debt collection.

(b) Each DOL Agency/Office is responsible for developing an internal debt collection system and prescribing internal procedures for collection of debts, including contract debts covered under FAR subpart 32.6. Agency/Office procedures should be in conformance

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with policies and procedures issued by DOL.

PART 2933—PROTESTS, DISPUTES, AND APPEALS

Subpart 2933.1—Protests

Sec.

2933.102 General.

2933.103 Protests to the DOL Agency.

2933.104 Protests to the GAO.

2933.105 Protests to the General Services Administration Board of Contract Appeals.

Subpart 2933.2—Disputes and Appeals

2933.203 Applicability.

2933.203–70 Department of Labor Board of Contract Appeals.

2933.209 Suspected fraudulent claims.

2933.211 Contracting officer's decision.

2933.212 Contracting officer's duties upon appeal.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 2933.1—Protests

SOURCE: 51 FR 40375, Nov. 6, 1986, unless otherwise noted.

2933.102 General.

The Director, Office of Procurement and Grant Policy, Directorate of Procurement and Grant Management, shall be responsible for coordinating bid protests filed with the General Accounting Office (GAO). All communications relative to protests filed with GAO or GSBCA shall be coordinated with the Director, Office of Procurement and Grant Policy. Bid protests concerning automatic data processing (ADP) acquisitions filed with the General Services Administration Board of Contract Appeals (GSBCA) shall be coordinated by the contracting officer.

2933.103 Protests to the DOL Agency.

When protests are filed with a DOL Agency and received before award, the contracting office shall obtain the advice of the Director, Office of Procurement and Grant Policy, before making the determination under FAR 33.103(a).

2933.104 Protests to the GAO.

(a) *Notice of protest.* Upon being advised telephonically by GAO or the re-

ceipt of a protest before or after award, the Office of Procurement and Grant Policy shall inform the appropriate contracting officer and request preparation of the protest report required by FAR 33.104(a)(2). For GAO protests concerning ADP acquisitions, the Office of Procurement and Grant Policy shall also inform the Director, Directorate of Information Resources Management, who, in turn, shall notify the appropriate DOL Agency Information Resources Management (IRM) contact. As required by FAR 33.104(a)(3) and 4 CFR 21.3, the contracting officer shall promptly notify all interested parties, including offerors (or the contractor, if the protest is after award) involved in or affected by the protest, that a protest has been filed with GAO and the basis for the protest. A written record of such notification shall be placed in the contract file. After receiving a copy of the protest from GAO and its request for an administrative report, the Office of Procurement and Grant Policy will promptly furnish the same to the contracting officer. The contracting officer shall promptly transmit by letter a copy of the protest to all interested parties previously notified and include a statement requiring furnishing of views and information directly to GAO. Copies of cover letters shall be sent to the Director, Office of Procurement and Grant Policy. Cover letters shall set forth a specified period of time for submission of comments (see FAR 33.104(a)(3)) and include instructions that any comments submitted to GAO should also be submitted simultaneously to the contracting officer and the Director, Office of Procurement and Grant Policy. Materials submitted by the protester may be withheld from interested parties in accordance with 4 CFR 21.3(b).

(b) *Submission of report.* (1) All personnel shall handle protests on a priority basis. Within 25 work days after receipt by the Office of Procurement and Grant Policy of GAO's telephonic notice of the protest, or within 10 work days after receipt from GAO of a determination to use the express option, a complete report shall be submitted to GAO (see FAR 33.104(a)(2)). If the specific circumstances of the protest require a longer period, the head of the

contracting activity shall immediately notify the Office of Procurement and Grant Policy which shall request, in writing, an extension of the time period in accordance with 4 CFR 21.3(d).

(2) In addition to the requirements of FAR 33.104(a)(2), the report responsive to the protest shall be appropriately titled and dated; shall cite the GAO file number; and shall be signed by the contracting officer or the contracting officer's representative. Reports shall be prepared with the assistance of the Office of the Solicitor of Labor. If appropriate, the report shall contain a statement regarding any urgency for the acquisition and the extent to which a delay in award may result in significant performance difficulties or additional expense to the Government. If award is not urgent, a statement shall be included giving an estimate of the length of time an award may be delayed without significant expense or difficulty in performance. The head of the contracting activity shall submit an original and one copy of the contracting officer's report to the Director, Office of Procurement and Grant Policy, with a forwarding letter to GAO signed by the Assistant Secretary for Administration and Management. When the letter and report are dated and transmitted to GAO, the Director, Office of Procurement and Grant Policy, will inform the contracting officer. The contracting officer will then distribute copies of the report to all interested parties.

(c) *Notice to GAO.* The Assistant Secretary for Administration and Management shall submit the report required by FAR 33.104(f). The report shall be submitted to the Comptroller General through the Director, Office of Procurement and Grant Policy, and the Director, Directorate of Procurement and Grant Management. For decisions concerning ADP acquisitions, the report shall also be submitted through the Director, Directorate of Information Resources Management.

2933.105 Protests to General Services Administration Board of Contract Appeals.

(a) *Notice of protest.* Immediately upon receipt of a copy of a protest to the General Services Administration

Board of Contract Appeals (GSBCA), the contracting officer shall inform the Office of Procurement and Grant Policy, the Directorate of Information Resources Management, and the Office of the Solicitor of Labor. The contracting officer shall, within 1 work day after receipt of a copy of the protest, provide oral or written notice to all parties required to be notified by FAR 33.105(a)(2) and shall provide the GSBCA with a written list of all such parties to whom notice was provided within 5 work days after receipt of a copy of the protest. A copy of all notifications to interested parties and related correspondence with GSBCA shall be maintained in the contract file and a copy of the list of interested parties notified shall be provided to the Office of Procurement and Grant Policy simultaneously with submission to the GSBCA.

(b) *Submission of protest file.* An original and one copy of a protest file (see FAR 33.105(b)) plus one copy for each interested party which has a notice of intervention or a motion to intervene in accordance with the requirements of Rule 5(a)(3) of GSBCA Rules of Procedure (48 CFR 6101.5(a)(3)) shall be prepared by the contracting officer. The protest file shall be organized to comply with the requirements of Rule 4(b) of the GSBCA Rules of Procedure (48 CFR 6101.4(b)). The contracting officer shall submit the file to the GSBCA within 10 work days after filing of the protest and shall also send copies to the Director, Office of Procurement and Grant Policy, and to each interested party.

(c) *Hearings.* The Solicitor of Labor, or the Solicitor's representative, is responsible for representing the contracting officer at all stages of proceedings on suspension of the agency's delegation of procurement authority (see FAR 33.105(d)), at all stages of proceedings on the merits of the protest (see FAR 33.105(e)), and with respect to any other proceedings which may be heard by the GSBCA. The head of the contracting activity shall be responsible for executing the determination required by FAR 33.105(d)(1). The Office of the Solicitor shall notify the contracting officer and the Directorate of Information Resources Management of

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the results of such proceedings, including any hearing.

Subpart 2933.2—Disputes and Appeals

SOURCE: 50 FR 8936, Mar. 5, 1985, unless otherwise noted. Redesignated at 51 FR 40375, Nov. 6, 1986.

2933.203 Applicability.

(a) The Assistant Secretary for Administration and Management shall make the determination prescribed under FAR 33.203(b).

(b) Determinations under paragraph (a) of this section shall be submitted by the Head of the Contracting Activity to the Director, Directorate of Procurement and Grant Management, for further action.

[50 FR 8936, Mar. 5, 1985. Redesignated and amended at 51 FR 40375, Nov. 6, 1986]

2933.203-70 Department of Labor Board of Contract Appeals.

(a) The Department of Labor Board of Contract Appeals (LBCA) is authorized by the Secretary to consider and determine appeals from decisions of contracting officers arising under a contract or relating to a contract made by the Department or any other executive agency when such agency or the Administrator of the Office of Federal Procurement Policy has designated the LBCA to decide the appeal.

(b) The address of the LBCA is 1111 20th Street, NW., Washington, DC 20036.

(c) The LBCA rules of procedure are contained in 41 CFR part 29-60.

2933.209 Suspected fraudulent claims.

The contracting officer shall refer all matters relating to suspected fraudulent claims by a contractor under the conditions in FAR 33.009 to the Office of the Inspector General for further action or investigation.

2933.211 Contracting officer's decision.

The written decision required by FAR 33.211(a)(4) shall include, in the paragraph listed under FAR 33.211(a)(4)(v), specific reference to the Department of Labor Board of Contract Appeals (LBCA), 1111 20th Street, NW., Washington, DC 20036, and its procedures under 41 CFR part 29-60. The LBCA optional small claims (expedited) procedures and accelerated procedures under 41 CFR 29-60.211 shall also be referenced as required by FAR.

[50 FR 8936, Mar. 5, 1985. Redesignated and amended at 51 FR 40375, Nov. 6, 1986]

2933.212 Contracting officer's duties upon appeal.

(a) When a notice of appeal has been received, the contracting officer shall endorse on the appeal the date of mailing (or the date of receipt if the notice was not mailed) and forward it to the LBCA by certified mail within five (5) days of receipt. The Solicitor of Labor shall also be notified of the appeal by the contracting officer. See 41 CFR 29-60.203.

(b) The contracting officer shall prepare and transmit the data, documentation, and information required by 41 CFR 29-60.205 in the form of an appeal file and appellant or appellants counsel within 30 days after receipt of a notice of appeal or advice that an appeal has been docketed by the LBCA.

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 2935—RESEARCH AND DEVELOPMENT CONTRACTING

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

2935.015 Contracts for research with educational institutions and nonprofit organizations.

(a) Heads of contracting activities shall furnish to the Director, Directorate of Procurement and Grant Management, copies of basic agreements pertaining to R&D with educational institutions and nonprofit organizations in accordance with 2916.702.

(b) The Director, Directorate of Procurement and Grant Management, shall furnish the list required under FAR 35.015(b)(3) to the FAR Secretariat.

[50 FR 8936, Mar. 5, 1985]

PART 2936—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 2936.2—Special Aspects of Contracting for Construction

Sec.

2936.201 Evaluation of contractor performance.

2936.202 Specifications.

2936.209 Construction contracts with architect-engineer firms.

Subpart 2936.5—Contract Clauses

2936.516 Quantity surveys.

Subpart 2936.6—Architect-Engineer Services

2936.602 Selection of firms for architect-engineer contracts.

2936.602-1 Selection criteria.

2936.602-2 Evaluation boards.

2936.602-3 Evaluation based functions.

2936.602-4 Selection authority.

2936.602-5 Short selection processes for contracts not to exceed \$10,000.

2936.603 Collecting data on and appraising firms' qualifications.

2936.604 Performance evaluation.

2936.606 Negotiations.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8936, Mar. 5, 1985, unless otherwise noted.

Subpart 2936.2—Special Aspects of Contracting for Construction

2936.201 Evaluation of contractor performance.

(a) The Head of the Contracting Activity shall establish procedures to evaluate construction contractor performance and prepare performance reports as required by FAR 36.201. Normally, the performance report shall be prepared by the contracting officer's authorized representative or other official who was responsible for monitoring contract performance and who is qualified to evaluate overall performance. DOL Agency/Office procedures shall prescribe instructions for review of the report, prior to distribution, as prescribed in FAR 36.201(b).

(b) Performance reports shall be made using Standard Form 1420, Performance Evaluation (Construction), as prescribed in FAR 36.701(e). Details concerning unsatisfactory performance including Government notification to the contractor as required by FAR 36.201(a)(3), and written comments by the contractor, shall also be included in the report.

(c) Performance reports shall be distributed to the Heads of Contracting Activities or designee for filing and other points required by DOL Agency/Office procedures. Copies of all reports shall also be promptly forwarded to the Director, Office of Procurement and Grant Policy, Directorate of Procurement and Grant Management, for central filing. All reports shall be retained for six years after the date of the report by the Office of Procurement and Grant Policy.

(d) Before making a determination of prospective contractor responsibility, the contracting officer may contact the Office of Procurement and Grant Policy, Directorate of Procurement and Grant Management, for information regarding performance evaluation reports on file, unless other procedures are prescribed in DOL Agency/Office instructions.

2936.202 Specifications.

When “brand name or equal” product descriptions are necessary, the requirements of 2910.004–70 shall be followed.

2936.209 Construction contracts with architect-engineer firms.

(a) As required by FAR 36.209, no contract for construction of a project shall be awarded to the firm that designed the project or its subsidiaries or affiliates without the written approval of the Director, Directorate of Procurement and Grant Management.

(b) Requests for approval under paragraph (a) of this section, shall be made by the Head of the Contracting Activity, through the appropriate Office of the Solicitor, to the Director, Directorate of Procurement and Grant Management. The request shall include the reason(s) why award to the design firm is required; an analysis of the facts involving potential or actual organizational conflicts of interest including benefits and detriments to the Government and the prospective contractor; and the measures which are to be taken to avoid, neutralize, or mitigate conflicts of interest.

Subpart 2936.5—Contract Clauses**2936.516 Quantity surveys.**

The Head of the Contracting Activity is authorized to make the determination regarding the impracticability of Government performance of original and final surveys as prescribed in FAR 36.516.

Subpart 2936.6—Architect-Engineer Services**2936.602 Selection of firms for architect-engineer contracts.****2936.602-1 Selection criteria.**

Heads of contracting activities are authorized to approve the use of design competition under the conditions in FAR 36.602-1(b).

2936.602-2 Evaluation boards.

Heads of Contracting Activities shall establish procedures for providing permanent or ad hoc architect-engineer evaluation boards as prescribed in FAR

36.602-2. DOL Agency/Office procedures shall provide for the appointment of private practitioners of architecture, engineering, or related professions when such action is determined by the Head of the Contracting Activity to be essential to meet the Government's minimum needs.

2936.602-3 Evaluation based functions.

The selection report required in FAR 36.602-3(d) shall be prepared for the approval of the Head of the Contracting Activity.

2936.602-4 Selection authority.

The Head of the Contracting Activity is authorized to serve as the designated selection authority in accordance with FAR 36.602-4.

2936.602-5 Short selection processes for contracts not to exceed \$10,000.

The selection process prescribed in FAR 36.602-5(b) shall be used for architect-engineer contracts not expected to exceed \$10,000.

2936.603 Collecting data on and appraising firms' qualifications.

(a) Heads of Contracting Activities which acquire architect-engineer services shall establish procedures to comply with the requirements of FAR 36.603.

(b) Copies of procedures established under paragraph (a) of this section shall be submitted to the Director, Directorate of Procurement and Grant Management, for review and approval. These procedures shall include a list of names, addresses, and telephone numbers of offices or boards assigned to maintain architect-engineer qualification data files. The list shall be updated annually and submitted to the Director, Directorate of Procurement and Grant Management, no later than 30 days after the beginning of each fiscal year.

2936.604 Performance evaluation.

(a) The Head of the Contracting Activity shall establish procedures to evaluate architect-engineer contractor performance as required in FAR 36.604. Normally, the performance report shall be prepared by the contracting officer's

2936.606

authorized representative or other official who was responsible for monitoring contract performance and who is qualified to evaluate overall performance. DOL Agency/Office procedures shall prescribe instructions for review of the report, prior to distribution, as prescribed in FAR 36.604(b).

(b) Performance reports shall be made using Standard Form 1421, Performance Evaluation (Architect-Engineer) as prescribed in FAR 36.702(c). Details covering unsatisfactory performance including Government notification to the contractor as required by FAR 36.604(a)(3) and written comments by the contractor shall also be included in the report.

(c) Performance reports shall be distributed to the Head of Contracting Activities for filing, distribution points in FAR 36.604(c), and other points required by DOL Agency/Office procedures. Copies of all reports shall also be promptly forwarded to the Director, Office of Procurement and Grant Policy, Directorate of Procurement and Grant Management, for central filing. All reports shall be retained by the Office of Procurement and Grant Policy for six years after date of the report.

(d) Evaluation boards or contracting offices may contact the Office of Procurement and Grant Policy, Directorate of Procurement and Grant Management, for information regarding performance evaluation reports on file, unless other procedures are prescribed in DOL Agency/Office instructions.

2936.606 Negotiations.

When a proposal is solicited from an architect-engineer firm selected for negotiations, the contracting officer shall include in the request for proposals a reference to 2936.209 of this title as required by FAR 36.606(c).

PART 2937—SERVICE CONTRACTING

Subpart 2937.1—Service Contracts—General

Sec.

2937.103 Contracting officer responsibility.

Subpart 2937.2—Consulting Services

2937.205 Management controls.

48 CFR Ch. 29 (10–1–98 Edition)

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 2937.1—Service Contracts—General

2937.103 Contracting officer responsibility.

Personal services contracts (see FAR 37.104) are not authorized.

[50 FR 8938, Mar. 5, 1985]

Subpart 2937.2—Consulting Services

2937.205 Management controls.

(a) Heads of contracting activities having a requirement for consulting or related services by either contract or purchase order to be awarded without competition (regardless of dollar amount) and competitive actions (\$50,000 or more) are required to prepare a written justification for such services. This written justification shall be submitted to the Procurement Review Board (PRB) at least 60 days prior to the proposed effective date of the contract. Generally, requests for such services will be scheduled for review by the PRB within 21 working days. Heads of Contracting Activities retain final approval authority for all competitive acquisitions under \$50,000. However, a copy of the justification for competitive acquisitions under \$50,000 must be forwarded to the Assistant Secretary for Administration and Management and the Inspector General within ten days of approval. Regardless of the type of action planned, the justification shall include the following:

(1) A statement of need which certifies that the requested services do not unnecessarily duplicate any previously performed work.

(2) Nature and scope of the problem, the results expected, and the manner in which the project will relate to an impact on the Contracting Activity administration and/or program management.

(3) That the services described in the request are not prohibited by OMB Circular A-120.

(4) Extent to which in-house staff availability was assessed, and the reasons why procurement of outside services are necessary.

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2937.205

(5) Any additional information or data which support the requirement for a contract.

(6) Name(s) and title(s) of official(s) who will be assigned as project officer(s) to work with the contractor, and who can be contacted for additional information.

(b) In accordance with FAR 37.205(b)(7), all purchase requests for consulting services initiated in the fourth quarter of the fiscal year must be submitted to the Procurement Review Board for action and subsequent approval by the Assistant Secretary for Administration and Management.

[50 FR 8938, Mar. 5, 1985]

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 2942—CONTRACT ADMINISTRATION

Subpart 2942.2—Assignment of Contract Administration

Sec.

2942.202 Assignment of contract administration.

2942.203 Retention of contract administration.

Subpart 2942.6—Corporate Administrative Contracting Officer

2942.602 Assignment and location.

Subpart 2942.7—Indirect Cost Rates

2942.703 Policy.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8938, Mar. 5, 1985, unless otherwise noted.

Subpart 2942.2—Assignment of Contract Administration

2942.202 Assignment of contract administration.

Unless otherwise prescribed in DOL Agency/Office procedures, the Head of the Contracting Activity is authorized to make the decision on withholding functions in FAR 42.202(b)(2).

2942.203 Retention of contract administration.

Unless otherwise prescribed in DOL Agency/Office procedures, the Head of the Contracting Activity is authorized to perform the review in FAR 42.203(b).

Subpart 2942.6—Corporate Administrative Contracting Officer

2942.602 Assignment and location.

The Head of the Contracting Activity is authorized to approve the need for a corporate administrative contracting officer as prescribed in FAR 42.602(a)(2).

Subpart 2942.7—Indirect Cost Rates

2942.703 Policy.

The Office of Cost Determination, Directorate of Procurement and Grant Management, is responsible for establishing billing rates and indirect cost rates as prescribed in FAR subpart 42.7.

PART 2943—CONTRACT MODIFICATIONS

Subpart 2943.2—Change Orders

Sec.

2943.205 Contract clauses.

Subpart 2943.3—Forms

2943.301 Use of forms.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 2943.2—Change Orders

2943.205 Contract clauses.

Heads of Contracting Activities may establish procedures, when appropriate, for authorizing the contracting officer to vary the 30-day period for submission of adjustment proposals to the clauses prescribed by FAR 43.205 (a)(1), (b)(1), (c), and (d).

[50 FR 8938, Mar. 5, 1985]

Subpart 2943.3—Forms

2943.301 Use of forms.

FAR 43.301(a)(1)(vi) requires the use of Standard Form 30 (SF-30) to effect any obligation or deobligation of contract funds after award. The SF-30 also shall be used to deobligate funds when effecting contract closeout for a cost reimbursement contract when obligated funds exceed the final contract costs. In such an instance, the SF-30 may be issued as an administrative modification on a unilateral basis if the contractor's financial release has been separately obtained. The contracting officer shall include in any unilateral contract modification issued for contract close-out a statement that the contractor has signed a release of

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claims and indicate the date the release of claims was signed by the contractor.

[51 FR 40376, Nov. 6, 1986, as amended at 53 FR 3839, Feb. 9, 1988]

PART 2945—GOVERNMENT PROPERTY

Subpart 2945.3—Providing Government Property to Contractors

Sec.

2945.302 Providing facilities.

2945.302-1 Policy.

Subpart 2945.4—Contractor Use and Rental of Government Property

2945.403 Rental—Use and Charges clause.

2945.405 Contracts with foreign governments or international organizations.

2945.407 Non-Government use of plant equipment.

Subpart 2945.6—Reporting, Redistribution, and Disposal of Contractor Inventory

2945.608 Screening of contractor inventory.

2945.608-6 Waiver of screening requirements.

2945.610 Sale of surplus contractor inventory.

2945.610-2 Exemptions from sale by GSA.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8938, Mar. 5, 1985, unless otherwise noted.

Subpart 2945.3—Providing Government Property to Contractors

2945.302 Providing facilities.

2945.302-1 Policy.

The Head of the Contracting Activity is authorized to make the determination for providing facilities to a contractor as prescribed in FAR 45.302-1(a)(4).

Subpart 2945.4—Contractor Use and Rental of Government Property

2945.403 Rental—Use and Charges Clause.

The Head of the Contracting Activity is authorized to make the determination for changing rent on the basis of

2945.610-2

use under the clause at FAR 52.245-9 as prescribed in FAR 45.403(a).

2945.405 Contracts with foreign governments or international organizations.

The Head of the Contracting Activity shall establish procedures, when required, for processing requests of foreign governments or international organizations to use Government property and for recovering costs for such use (see FAR 45.405).

2945.407 Non-Government use of plant equipment.

(a) The Director, Directorate of Procurement and Grant Management, is authorized to approve the non-Government use of plant equipment as prescribed in FAR 45.407.

(b) Requests for approval under paragraph (a) of this section shall be submitted by the Head of the Contracting Activity.

Subpart 2945.6—Reporting, Redistribution, and Disposal of Contractor Inventory

2945.608 Screening of contractor inventory.

2945.608-6 Waiver of screening requirements.

(a) The Director, Directorate of Procurement and Grant Management, is authorized to waive screening requirements as prescribed in FAR 45.608-6.

(b) Requests for waiver shall be submitted by the Head of the Contracting Activity.

2945.610 Sale of surplus contractor inventory.

2945.610-2 Exemptions from sale by GSA.

(a) The Assistant Secretary for Administration and Management is authorized to seek exemptions from sale as prescribed in FAR 45.610-2.

(b) Requests for exemptions shall be submitted by the Head of the Contracting Activity to the Director, Directorate of Procurement and Grant Management, for further action.

PART 2948—VALUE ENGINEERING

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 2948.1—Policies and Procedures**2948.102 Policies.**

(a) The Head of the Contracting Activity is authorized to make the determination to extend the sharing base of a value engineering change proposal (VECP) as prescribed in FAR 48.102(e).

(b) The Head of the Contracting activity is authorized to extend the sharing base of a VECP to include the entire contracting activity or any part of it (see FAR 48.102(e)).

(c) When the sharing base is extended under paragraph (a) or (b) of this section, the contracting officer shall specify the base in the contract schedule as required in FAR 48.104–1(a).

[50 FR 8939, Mar. 5, 1985]

PART 2949—TERMINATION OF CONTRACTS**Subpart 2949.1—General Principles**

Sec.

2949.106 Fraud or other criminal conduct.

2949.111 Review of proposed settlements.

2949.111–70 Settlement review boards.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8939, Mar. 5, 1985, unless otherwise noted.

Subpart 2949.1—General Principles**2949.106 Fraud or other criminal conduct.**

(a) Whenever fraud, such as falsified documents, false statements, or other criminal conduct related to the settlement of a terminated contract is suspected, the contracting officer shall discontinue negotiations and prepare a report of the facts. The report shall be submitted by the Head of the Contracting Activity to the Assistant Inspector General for Investigations along with copies of documents or other information connected with the suspected violation(s). A copy of the report shall also be submitted to the Director, Di-

rectorate of Procurement and Grant Management.

(b) Depending on the findings of the Assistant Inspector General for Investigations, the Head of the Contracting Activity may initiate suspension or debarment action as prescribed in FAR subpart 9.4 and subpart 2909.4.

2949.111 Review of proposed settlements.

All proposed settlement agreements shall be reviewed by the Office of the Solicitor and approved at a level higher than the contracting officer in accordance with DOL Agency procedures. Settlement agreements of \$50,000 or more shall be approved by the Head of the Contracting Activity.

2949.111–70 Settlement review boards.

(a) Heads of Contracting Activities shall establish settlement review boards for the review of each termination settlement or determination of amount due under the termination clause of a contract or approval or ratification of a subcontract settlement when the action involves \$50,000 or more.

(b) Settlement review boards may be established for actions below \$50,000 when considered desirable by the Head of the Contracting Activity or when specifically requested by the contracting officer.

PART 2951—USE OF GOVERNMENT SOURCES BY CONTRACTORS**Subpart 2951.1—Contractor Use of Government Supply Sources**

Sec.

2951.101 Policy.

2951.102 Authorization to use Government supply sources.

2951.102–70 Exclusive use on Government work.

Subpart 2951.2—Contractor Use of Interagency Motor Pool Vehicles

2951.201 Policy.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8939, Mar. 5, 1985, unless otherwise noted.

Subpart 2951.1—Contractor Use of Government Supply Sources

2951.101 Policy.

It is DOL policy that cost-type contractors should meet their requirements from Government sources of supply when these sources are available to them, and if it is economically advantageous or otherwise in the best interest of the Government.

2951.102 Authorization to use Government supply sources.

(a) The Head of the Contracting Activity may authorize cost-type contractors and subcontractors, where all higher tier contracts and subcontracts are cost-type, to use Government supply sources in accordance with the requirements and procedures in FAR subpart 51. This authority may be redelegated to the level of contracting officer.

(b) If the contracting officer decides to authorize a contractor to use Government supply sources under the conditions prescribed in FAR 51.102, a

written request for a FEDSTRIP activity address code (see FPMR 101-26.203) shall be made directly to the DOL Agency, Headquarters Property Management Office.

2951.102-70 Exclusive use on Government work.

Materials, supplies, and equipment acquired from Government sources of supply under the procedures described herein must be used exclusively in connection with Government work, except as otherwise authorized by the Head of the Contracting Activity.

Subpart 2951.2—Contractor Use of Interagency Motor Pool Vehicles

2951.201 Policy.

If it is in the Government's interest, the contracting officer may authorize cost-reimbursement contractors to obtain, for official purposes only, as defined in FAR 51.201(a), interagency motor pool vehicles and related services for short-term use under Federal Supply Schedule Industrial Group 751.

SUBCHAPTER H—CLAUSE AND FORMS

PART 2952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Sec.

2952.000 Scope of part.

Subpart 2952.1—Instructions for Using Provisions and Clauses

2952.102-1 Incorporation by reference.

2952.170 Deviations.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8940, Mar. 5, 1985, unless otherwise noted.

2952.000 Scope of part.

This part implements FAR part 52 which sets forth contract clauses for use in connection with the acquisition of personal property and nonpersonal services (including construction).

Subpart 2952.1—Instructions for Using Provisions and Clauses

2952.102-1 Incorporation by reference.

(a) Preprinted standard general provisions sets will be maintained by the Office of Procurement and Grant Policy, Directorate of Procurement and Grant Management, and distributed to DOL contracting activities for use during the initial FAR and DOLAR familiarization period. Contracting activities will be responsible for inserting necessary additions and alterations into individual contracts to ascertain that the general provisions are current and appropriate to the circumstances of the individual contract.

(b) At a later date, when the FAR general provisions are familiar to both DOL personnel and the Department's contractors, the general provisions will be incorporated by reference.

2952.170 Deviations.

(a) Individual or class deviations of provisions and clauses in FAR part 52 shall be authorized by the Director, Directorate of Procurement and Grant Management, as prescribed in subpart 2901.4.

(b) Any FAR provision or clause used with a deviation authorized in accordance

with paragraph (a) of this section shall be identified as prescribed in FAR 52.103.

PART 2953—FORMS

Sec.

2953.000 Scope of part.

Subpart 2953.1—General

2953.103 Exceptions.

2953.108 Recommendations concerning forms.

2953.170 Forms for collection of information.

Subpart 2953.2—Prescription of Forms

2953.200 Department of Labor forms.

Subpart 2953.3—Illustration of Forms

2953.300 Scope of subpart.

2953.303 Agency forms.

2953.303- DL 1-1 Department of Labor Form DL 1-1, Requisition for Equipment, Supplies, or Services.

2953.303- DL 1-90 Department of Labor Form DL 1-90, Purchase Order.

2953.303- DL 1-194 Department of Labor Form DL 1-194, Certification Prior to Acquisition of Filing Equipment.

2953.303- DL 1-2004 Department of Labor Form DL 1-2004, Small Business Procurement Determination.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8940, Mar. 5, 1985, unless otherwise noted.

2953.000 Scope of part.

This part (a) prescribes Department of Labor (DL) forms for use in acquisition, (b) illustrates these forms, and (c) contains procedures for exceptions to forms prescribed in FAR part 53 or this part 2953.

Subpart 2953.1—General

2953.103 Exceptions.

(a) Requests for exceptions to standard forms in FAR part 53 shall be submitted, as prescribed in FAR 53.103, to the Director, Directorate of Procurement and Grant Management, for further action.

(b) Requests for exceptions to Department of Labor (DL) forms in part

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2953.303

2953 shall be handled as deviations (see subpart 2901.4).

2953.108 Recommendations concerning forms.

Recommendations concerning forms (see FAR 53.108) shall be made as prescribed in 2901.304(e).

2953.170 Forms for collection of information.

In accordance with the Paperwork Reduction Act of 1980 and 5 CFR part 1320, DOL Agencies/Offices imposing forms under contracts or subcontracts requiring the collection of information on identical items from 10 or more members of the public must obtain approval from the Office of Management and Budget.

Subpart 2953.2—Prescription of Forms

2953.200 Department of Labor forms.

This subpart prescribes Department of Labor (DL) forms for use in acquisition.

Consistent with the approach used in FAR subpart 53.2, this subpart is arranged by subject matter, in the same order as, and keyed to, the parts of the DOLAR in which the form usage requirements are addressed.

Subpart 2953.3—Illustrations of Forms

2953.300 Scope of subpart.

This subpart contains illustrations of Department of Labor (DL) forms used in acquisition.

2953.303 Agency forms.

This section illustrates Department of Labor (DL) forms specified by the DOLAR for use in acquisitions. The forms are illustrated in numerical order. The subsection numbers correspond with the DL form numbers.

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2953.303-DL 1-1 Department of Labor Form DL 1-1, Requisition for Equipment, Supplies, or Services.

U.S. DEPARTMENT OF LABOR REQUISITION FOR EQUIPMENT, SUPPLIES, OR SERVICES <small>(Note General Instructions for Preparation on Reverse Side of Part 1.)</small>			1. REQUISITION NO.		2. BUREAU	
			3. PAGE NO. OF _____ PAGES		4. DATE	
5. ALLOTMENT AND APPROPRIATION			6. DELIVER TO: <small>(Specify if inside delivery is required)</small>			
7. FOR INFORMATION CALL (Name, Ext.)						
8. SIGNATURE AND TITLE OF APPROVING OFFICER						
9. ITEM NO.	10. STOCK NO.	11. DESCRIPTION OF ARTICLES OR SERVICES <small>(Double space between items)</small>	12. QUANTITY	13. UNIT OF ISSUE	14. UNIT PRICE	15. AMOUNT
TO BE COMPLETED BY SUPPLY ACTIVITY						
16. SHIPPED VIA <input type="checkbox"/> Freight <input type="checkbox"/> Parcel Post <input type="checkbox"/> Mail			17. FILLED BY _____ DATE _____		18. PACKED BY _____ DATE _____	
19. CHECKED BY _____ DATE _____						
20. DATE OF SHIPMENT		21. BILL OF LADING NUMBER		22. ESTIMATED COST OF SHIPMENT		
TO BE COMPLETED BY RECEIVING ACTIVITY (Optional - See Instruction No. 6 on Reverse)						
23. SIGNATURE _____ TITLE _____ DATE _____						

DL FORM 1-1, REV. OCTOBER 1968

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2953.303-DL 1-90 Department of Labor Form DL 1-90, Purchase Order.

Purchase Order

U.S. Department of Labor



Method of Purchase Form Approved Budget Bureau No. 48-R101 (See F. S. S. Cir. Ltr. No. B-89)		1. Federal Supply Schedule 2. Federal Supply, Service Contract 3. Direct Purchase Transfer 4. Advertising (BS 2108) 5. New Business Transactions 6. Other B. & B. (BS 2109) 7. Miscellaneous	This number must appear on all packages and papers relating to this order! Order No. (33-40)	Date
Requisition No.	Agency	Form 1099 Required	No <input type="checkbox"/> Yes <input type="checkbox"/>	Page of
To		Ship To		

Invitation No.	Contract No.	Time for Delivery	Discount Terms
FOB Point	Ship Via	Gov't B/L No.	

Item No.	Quantity	Unit	Unit Price	Amount
				Total

22-DIGIT ACCOUNTING CODE	
10-31	

Payment will be made after receipt of articles ordered and upon proper completion and submission of invoice in triplicate to:

Original

Signature _____
 Name _____
 Title _____
 (Authorized Purchasing Officer)

DL Form 1-90
 (Rev. Jan. 1976)

PURCHASE ORDER TERMS AND CONDITIONS

152.252-2 CLAUSES INCORPORATED BY REFERENCE (Apr 1984). This contract incorporates the following clauses by reference with the same force and effect as if they were given in full text. Upon request the Contracting Officer will make their full text available:

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)
CLAUSES

- 52.203-1 Officials Not to Benefit (Apr 1984)
- 52.203-3 Gratuities (Apr 1984)
- 52.203-4 Covenant Against Contingent Fees (Apr 1984)
- 52.212-9 Variation in Quantity (Apr 1984) (In the preceding clause the permissible variations are stated in the schedule)
- 52.215-1 Examination of Records by the Comptroller General
- 52.219-13 Utilization of Women-Owned Small Businesses
- 52.222-3 Convict Labor (Apr 1984)
- 52.222-4 Contract Work Hours and Safety Standards Act—Overtime Compensation—General (Apr 1984)
- 52.222-20 Walsh-Healey Public Contracts Act
- 52.222-26 Equal Opportunity (Apr 1984)
- 52.222-36 Affirmative Action for Handicapped Workers (Apr 1984)
- 52.222-40 Service Contract Act of 1965—Contracts of \$2,500 or Less (Apr 1984)
- 52.222-41 Service Contract Act of 1965 (Apr 1984)
- 52.225-3 Buy American Act—Supplies (Apr 1984)
- 52.232-1 Payments (Apr 1984)
- 52.232-8 Discounts for Prompt Payment (Apr 1984) (With Alternate 1)
- 52.233-1 Disputes (Apr 1984)
- 52.243-1 Changes—Fixed Price (Apr 1984)
- 52.249-1 Termination for Convenience of the Government (Fixed Price) Short Form) (Apr 1984)

2953.303-DL 1-194 Department of Labor Form DL 1-194, Certification Prior to Acquisition of Filing Equipment.Certification Prior to
Acquisition of Filing Equipment**U.S. Department of Labor**

1. Requisition Number _____

Instructions

For standards and procedures pertaining to the disposition of records and utilization of filing equipment, refer to DLMS Chapter 1-Records Management. Prepare original and attach to requisition. Requests originating in the National Office will be routed to Division of Information Storage and Disposition Policy, DMPS, OASAM. Field locations will route requests to the RA, OASAM.

To: _____

3. From: (Requesting Office) _____

This request pertains to: (Check One) ☐ A. Acquisition of filing cabinets
☐ B. Acquisition of other filing equipment

Certification

I hereby certify that actions prerequisite to requesting excess, rehabilitated, or new filing equipment have been completed as indicated below:

- ☐ a. Agency records have been disposed of in accordance with the General Records Schedules or approved Agency Records Schedules.
- ☐ b. Retention periods for records no longer required have been reduced to the absolute minimum.
- ☐ c. Inactive records have been retired to the Federal Records Centers.
- ☐ d. Contents of filing cabinets have been rehoused in more economical equipment where appropriate.
(For example: shelf filing for records, shelving, storage cabinets, and similar equipment for stocks of forms, publications and office supplies.)
- ☐ e. Filing cabinets are being fully utilized, including top and bottom drawers, for housing records.
(Drawers filled to optimum extent - usually 3/4 full to permit ready filing and finding; contents of cabinets that are less than half full have been consolidated.)
- ☐ f. Filing cabinets have been redistributed within the Agency to meet needs for special types and sizes of cabinets.
- ☐ g. Stocks of filing cabinets have been reduced to immediate needs and any unneeded cabinets have been reassigned to points of shortage within the Agency or reported as excess to OASAM.
- ☐ h. The requested equipment will not be used to house records that are eligible for disposition or retirement.

Signature of Agency Records Officer (or Agency Regional Administrator)_____
Date_____
Approved_____
Signature of Departmental Records Officer or Regional Administrator—OASAM_____
Date

2953.303-DL 1-2004 Department of Labor Form DL 1-2004, Small Business Procurement Determination.

Small Business
Procurement Determination

U.S. Department of Labor



Procurement Office

Name and address of Contracting Officer		Telephone Number	Number and Date of Requisition
			Procurement Control Number
1. Description of proposed product and/or service		3. Estimated Cost	
		4. Proposed period of performance	
2. Proposed method of procurement		5. Has exact item/service been procured previously?	
(a) _____ 8(a) Procedures		6. Previous contract number:	
(b) _____ 100% Small business/labor surplus area set-aside		7. Date of previous award:	
(c) _____ 100% Small business set-aside		8. Previous method of procurement:	
(d) _____ Partial small business/labor surplus area set-aside		9. Total number of responses received:	
(e) _____ Partial small business set-aside		10. Number of responses from small business:	
(f) _____ 100% Labor surplus area set-aside/large business			
(g) _____ Unrestricted—proprietary item (explain below)			
(h) _____ Unrestricted—insufficient small business competition (explain below)			
(i) _____ Other (specify)			
Comments:			
11. Name and location of previous contractor:		12. Total price:	
<input type="checkbox"/> Small business <input type="checkbox"/> Large business			

Signature of Contracting Officer

Date

Review by Small and Disadvantaged Business Specialists

_____ I concur with the recommendations of the Contracting Officer
 _____ I do not concur with the recommendations of the Contracting Officer

Comments:

Signature of Small and Disadvantaged Business Specialist

Date

Review by the Small Business Administration's Procurement Center Representative

_____ I concur with the recommendations
 _____ Please solicit additional sources attached
 _____ I do not concur with the recommendations and request suspension of this procurement action pending an appeal under FPR 1-1.706-2 (a) (1).
 SBA Form 70 is attached.

Signature of Small Business Administration's Procurement Center Representative

Date

DL 1-2004
7/82